Secrt. II-37—300—27-10-43.

Development (1943) Department.

(MS) SERIES.

G.O. No. 2436

Dated 30-9-43

[Despatch Abstract.]

War - Defence of India Rule - Acquisition of immovable properties - Kollegal Silk Filatures Ltd - Payment of Compensation Appointment of Arbitrator

Draft ✕ 1

Dev Dept
OT

Lemo No. 7784 OT/43-1 dt 16-4-43

Sub: War Dev. Rules - Mr Kollegal Silk Filaments
Registration of

Ref Ro No. 311 (Confdl) Dev dt 12-3-43
Ro No 448 (") Dev dt 30-3-43

The D.I.C is requested to submit the reports called for in paras 1 and 2 of Ro No. 311 (Confdl) Dev dt 12-3-43 and in para 2 of Ro No. 448 (Confdl) Dev dt 30-3-43.

Ppd 16.4.43

To The DIC. Kadur.

16/4/43

16/4/43

23.4.43.

PTO

21/4/43

D.O.

DIRECTOR OF INDUSTRIES
& COMMERCE, MADRAS,
Camp Kollegal, 18th April 1943.

8219

My dear Sivasankar,

Subject: War - Defence of India Rules - Kollegal Silk Filatures Limited, Kollegal Acquisition of properties requisitioned - Payment of compensation.

(S)

Will you please refer to G.O.No. Ms. 448, (Confidential) Development, dated 30th March 1943, calling for a report on the compensation to be paid for the properties of the Kollegal Silk Filatures Limited ? I have been asked to arrange with the Special Officer appointed in G.O.No.R. 216, Public Works Department, dated 21st March 1943, to have the valuation of the properties of the Company completed as early as possible. Pandian, the Special Officer deputed for this work, reported for duty at Kollegal on 7th April 1943. He is now engaged in preparing plans and estimates for the valuation of the buildings. In his letter dated 9th April 1943 addressed to me, he says that being a Civil Engineer he is in no position to value the machines, tools, scientific instruments, etc. He suggests that the General Superintendent, Public Works Workshops, Madras, may be asked to depute one of his subordinates for this purpose.

2. I saw Pandian yesterday at Kollegal and discussed with him the question of the valuation of the movable and immovable properties of the Company. He expressed his inability to value the machinery etc., as he was qualified neither to assess the present condition of the machinery nor its present day value. As regards buildings he explained to me the procedure he was adopting and said that he would be completing this work shortly. He has promised to send in his report before the end of April.

X

3. As regards machines, tools, etc., I do not think it necessary to ask the General Superintendent, Public Works Worksnops, Madras, to depute some subordinate officer for this work. Quite likely this gentleman would come round, see the maninery and say that ne nas no experience of stores purchase and even if he has such experience, he might turn round and say ne knows nothing about reeling machines. I have asked Peychaud to value these items of movable property and to let me have his figures. I hope this action of mine would commend itself to Government.

M

4. I have also asked the Managing Director of the Kollegal Silk Filatures Limited to send me, before the end of April, a report from their own nominee (whom the Board of Directors resolved to appoint for the valuation of the movable and immovable property of the Company sometime ago). On receipt of these reports, I shall discuss matters with the Managing Director and with the Board of Directors, if necessary, and then submit my recommendations to Government.

Is this really necessary? 21/4/43

Yours sincerely,

A Khaleli

T. Sivasankar Esq., I.C.S.,
Additional Secretary to Government,
Development Department,
Madras.

Dev. Dept.

To Addl U.S

A & M on pp 3-4 above: The suggestion of the D Ise may be accepted. Subject to this a draft D.O. is submitted.

C on pp 4 above: Under Section 19(1)(a) of the D.O. Act the amount of Compensation for immovable properties can be

Do 21/4/43 (Initials)

fixed by agreement. Presumably the course suggested in para 4 by the D.I.&C. will help to arrive at the award by agreement. On this view, the D.I.&C. procedure need not perhaps be objected to. It is not however necessary to commit the owner in regard to market properties. The owner shall be paid such Compensation as the Govt. may determine. and his agreement is not a Condition precedent.

A.O. No. 1 of 1943
D.O.F. Rules
No. 2 F. 3/1943-Pol.

VDS
22.4.43

Discussion with the owner is not obligatory but it may be useful in enabling the D.I.&C. to see all aspects of the question and to submit an exhaustive report of valuation to us / not to leave out any point which the owners are likely

to reuse later on.

22/4/43. Ad. S

A. may see D.H.'s letter at pp 3-4 C.f

the draft for the D.H.C may come

Brown

A. 26/4/43

Box

27 Nov 23/4/43

Dev. Dept

D.O. No 7784 Di/43-2 dt 27.4.43

(From Shri ——)

Sub: Kollegal Silk Weavers - Payment of Compensation

pp 3-4 above Ref your D.O. No Nil dt 18.4.43.

I am to say that the

in lr 4 above valuation of machines, tools &c made by Mr Peychand may be considered as the basis for the payment of compensation for movable properties. As regards immovable properties, I am to request that the Special

A on lr 3 above Officer may be asked to complete the valuation as soon as possible and that the

8

Report called for in D.O. No 448 Dev d 30343 be sent soon.

Y.S.

22/4/43

22/4/43.

A. Khaleeli Engrs.

9064 9

2160-D/42 Office of the Director of Industries and Commerce, Madras, dated 29th April 1943.

From A. Khaleeli Esq.,I.C.S., To the Additional Secretary
Director of Industries to Government, Development
and Commerce, Madras. Department.

Sir,

Sub:- Kollegal Silk Filatures - Acquisition of.
Ref:- Government Memorandum No.7784-D/43-1, dated the 16th April 1943.

ADDITIONAL UNDER SECRETARY TO GOVT. 1 MAY 1943 DEVELOPMENT DEPARTMENT

The reports of Mon.R. Peychaud in regard to the inventory of the articles acquired and the staff employed in the Kollegal Silk Filatures are awaited.

As regards the compensation payable in respect of movable and immovable properties taken over, the reports of the Executive Engineer and Peychaud are awaited and they have been asked to expedite their reports.

Director of Industries & Commerce.

10

Dev. dept

Submitted for perusal of the D.T.P.C's
written reply on probation. Further report
may be awaited till 10.5.43.

2.5.43 25/5/43

3/5/43

Dev Dept II

Memo No 7784 D/43-3 d 14543

Plan Wing

Sub: War - D.O.I Rules - Kollegal Silk Farms - Acquisition of - Staff & payment of Compensation - Particulars

Ref: from the DIGC No 2160 D/42 d 29.4.43.

The DIGC is requested to expedite the submission of the report promised in his letter cited.

Dept 1415/43

13.543 13543

To the DIGC

R. 25-5-43.

12

D.O. No 7784-B/43 -

Sub: Kollegal Silk Filatures - acquisition -
Payment of Compensation.

Ref: Govt. Memo M 7784-B/43-3 d 14.5.43 ~~p~~ 11 above

I am to request that the report regarding the payment of Compensation for the property of the Kollegal Silk Filatures to be acquired by the Govt be expedited.

Yours

A. Khaleeli Esq ICS
DIG

Dft
5.6.43
Typ
7.6.43

D.O.No. 2160-D/42.

13217

DIRECTOR OF INDUSTRIES AND COMMERCE,
Madras, Dated 8th June 1943.

My dear Sivasankar,

Sub: War - Defence of India Rules - The Kollegal Silk Filatures - Acquisition of.

Will you please refer to your D.O.No. 7784-DI/43-2 dated 27th April 1943 on the subject mentioned above ? I enclose a copy of a letter I propose to send to the Chairman of the Board of Directors of the Kollegal Silk Filatures in connection with the compensation to be paid for the acquisition of the movable and immovable properties of the company. In so far as land and buildings are concerned, there is no possibility of the company ever agreeing to the value as worked out by the Special Officer. I personally feel that we should allow the book value of these two items plus 15% solatium. In fact under section 19 of the Defence of India Act, it is stated that where the amount of compensation in respect of immovable property to be paid is not fixed by agreement, an arbitrator appointed by the Central Government shall in making his award have regard to the provisions of sub-section (i) of section 23 of the Land Acquisition Act, 1884, in so far as the same can be made applicable. In view of this a solatium of 15% seems admissible. Further, I should point out that since there was a nominee of Government on the Board of Directors of the company and since the company was inaugurated with the blessings of the Government of Madras, it is fair to accept the book value of the land and buildings.

For similar reasons, I suggest that the book value of the plant and machinery be also accepted.

There is one more matter to which I must

refer here and that is as regards the interest payable. I should like to have orders from Government as regards the rate at which interest should be paid on the sum which may be determined as payable to the company as compensation. The company has suggested interest at 6%.

If my draft meets with the approval of Government, I shall ~~xxx~~ issue it.

Yours sincerely

A Khaleel

T. Sivasankar Esq., I.C.S.,
Addl. Secretary to Government,
Development Department,
Fort St. George,
Madras.

A.N.-8-6.

Copy

D.O.

DIRECTOR OF INDUSTRIES AND COMMERCE,
Madras, Dated 1943.

Dear Mr. Raghaviah,

Industries - Sericulture - Kollegal Silk Filatures Acquisition.

Thank you for your letter of the 5th June 1943 enclosing a memorandum of the Board of Directors of the Kollegal Silk Filatures in regard to the compensation to be paid on the acquisition of the Kollegal Silk Filatures. I have given my best consideration to the several points raised in the memorandum and I would fain make another attempt at agreement before submitting my own proposals to Government. I would add that the proposals I now make do not commit Government in any manner.

A perusal of the memorandum clearly shows that there are many points on which I could have thrown light had the Board of Directors not decided "to forego the pleasure of meeting" me. My comments on the several matters discussed in the memorandum are as follows.

"It is not clear to the Board" says the memorandum, "on what basis exactly the valuation has been made." When you saw me at my office about the end of May 1943, I explained to you in general terms how the Special Officer appointed in G.O.No.R. 216, P.W., dated 21st March 1943 had proceeded in the matter in so far as immovable properties are concerned and also the basis on which the present valuation of the basins etc., had been arrived at.

Land The Special Officer has valued the land at Rs. 2909 on the basis of the report of the Tahsildar, Kollegal, made in the month of April 1943.

Well The Special Officer has valued the well at Rs.2773. This is on the basis of the rates that are now followed by the P.W.D. in the Kollegal section of the Salem District. He has not allowed any depreciation in so far as excavation work is concerned, though he has allowed depreciation in respect of the steining of the well which is correctly speaking included under Buildings.

Land and well The total value of the land and well, as estimated by the Special Officer, is Rs.5682 as against the sum of Rs.7265 which the Board of Directors considers as fair and reasonable.

Buildings The Special Officer has worked out the present value of the buildings on the basis of the current schedule of P.W.D. rates followed in the Kollegal section of the Salem District in all matters except (i) cement, iron and galvanised iron sheets, where controlled rates have been adopted, (ii) Mangalore tiles, where the rates adopted are those at which these are supplied to the Government Silk Filatures, and (iii) teakwood reepers, where an increase has been allowed over the scheduled P.W.D. rates on account of difficulty in obtaining them at Kollegal. I must, however, point out that the Special Officer has called attention to the fact that the buildings of the filature have not been constructed to conform to P.W.D. specifications. Hence a certain amount of deduction had to be allowed on this account. The present value of the buildings as given by the Special Officer is Rs. 25,734/-. (This excludes the value of the well which had been included in the figure of Rs.28,500).

According to the balance sheet for the year ending

June 1942, the value of the buildings was Rs.30,185. The Board, however, points out that this value was based on pre-war prices of materials and labour and that at present the buildings are worth over Rs.50,000 at Rs.3 per square foot for 17,000 sq.ft. of plinth area. I have already explained the principles which have been followed by the Special Officer in determining the value of the building. He has adopted the current P.W.D.rates. I may, for the information of the Board, state here that the rates allowed to the contractor of the Government Silk Filatures were lower than the current P.W.D. rates and that I am considering the question of addressing Government to raise the rates allowed to the contractor to the P.W.D. level.

Basins The Board points out that the basins cost the company Rs.39,750 and that allowing for depreciation at 5% per year, the present value of the basins amounts to Rs.32,000, which, in the opinion of the Board, is very modest, having regard to the fact that all the basins have not fully worked and do not, therefore, admit of full depreciation. I would, in this connection, point out that all the 150 basins are not imported Italian basins, and that there are in fact 7 different types of basins as follows:

1.	Imported italian basins for reeling 6 ends with jette-bouts, 3 reels per basin, mechanical brushes ..	40
2.	Same as above but with 2 reels per basin	14
3.	Same as above but fitted for reeling 4 ends only ..	12
4.	Same as above but fitted with one reel only ..	10
5.	A mixture of imported and locally made materials go to make up these basins which are fitted for reeling 4 ends with jette-bouts, 2 reels	24
6.	Locally made basins, concrete tables, copper basins jette bouts, 2 reels per basin 4 ends ..	35
7.	Same as above but with concrete basins ..	15
	Total	150

The basins referred to in items 1 to 4 totalling 76 in all were referred in the prospectus issued by Mr. Silva in 1937 as "most up-to-date and in first class working order". The basins in Group I were valued at Rs. 320 each and those shown against groups 2,3 and 4 at Rs.250 each. When the basins were requisitioned jette bouts had been dismantled and were not in working order and the mechanical brushes had been removed. Nor had these basins been ever maintained properly otherwise.

As regards the remaining 74 basins, they were purchased, according to the information before me, at Rs.175 per basin. In the case of these basins also, the jette bout apparatus was not in working order and most of it had been dismantled at the time they were taken over by Government. Some of these basins have not worked because they could not be worked as they were not in good repair. None of them is complete or in good repair now.

Plant and equipment As against Rs.10,125 adopted by departmetal officers, the Board feels that this figure should be doubled. It has given no reasons whatever in support of the proposal.

The Board has also claimed compensation for certain other items. The first item refers to trained labour. In this connection I should like to point out that under the Defence of India Rules, there is no provision for requisitioning the services of staff. It was thus not open to Government to do so in respect of the staff of the Kollegal Silk Filatures. All that Government did was to permit such of the staff as were willing to enter into fresh agreement with them. No question of compensation can thus arise. Nor is the claim of the company to have passed on many a trained hand to Government borne out by facts as have been discovered in practice.

There are two other suggestions of the Board to which I should refer now. The Board has suggested that in view of the

compulsory acquisition of the movable and immovable properties, Government should pay 15% over and above the present market value on the analogy of the acquisition effected under the Land Acquisition Act. I would in this connection like to point out that 15% solatium is payable under the Land Acquisition Act for acquisition of immovable property alone and not of movable property. As regards the Board's suggestion that interest should be paid at 6% on the compensation which may be determined as payable to the company from the date on which the movable and immovable property of the company were requisitioned, i.e. 16th March 1943. I shall certainly consider this matter.

In the table below I compare the value of the different items of the property as assessed by the officers of the department and by the Board.

Description of the property.	Valuation by Departmental officers.	Valuation by Board of Directors of Kollegal Silk Filatures.
	Rs.	Rs.
1. Land	2,909	7,265.
2. Well	2,773	
3. Buildings	25,734	50,000.
4. Basins	17,375	75,000.
5. Plant and other equipment	10,125	20,250.

I have had the value of movable and immovable properties calculated after allowing due depreciation up to 31st March 1943. Without prejudice and without in any way committing Government, I am prepared, for the sake of agreement, to offer the following terms:

1. Land and well (at cost) ... Rs. 7265-10--0
2. Building (at cost) according to the Balance sheet of the company prepared by me as on

18

-4-

	31-3-1943 after allowing depreciation at 2.5%	Rs.	29,566--7--0.
3.	Add 15% solatium on the analogy of Land Acquisition Act for items 1 and 2	"	5,524-13--0.
4.	Plant and machinery (at cost) as per Balance sheet as on 31-3-1943 less depreciation at 5%	"	40,429-12--0.
5.	Tools and equipment (at cost) as per Balance sheet as on 31-3-1943 less 10% depreciation	"	1,802--6--0.
6.	Scientific instructions (at cost) as per balance sheet as on 31-3-1943 less 10% depreciation	"	393-12--0.
7.	Furniture and Deadstock (at cost) as per balance sheet as on 31-3-1943 less depreciation of 12.5%	"	176--8--0.
8.	Carts and cycles (at cost) as per balance sheet as on 31-3-1943 less 10% depreciation	"	155--0--0.
9.	Live stock ...	"	172--0--0.

I shall be glad to have a very early reply in the matter.

Yours sincerely,

Diwan Bahadur T. Raghaviah, C.S.I.,
Chairman, Board of Directors of the
Kollegal Silk Filatures,
Venkata Vilas,
Graems's Road,
Cathedral P.O., Madras.

A.N.-

Copy of D.O.dated the 5th June 1943 from Diwan Bahadur T. Raghaviah, C.S.I., Chairman, Board of Directors, Kollegal Silk Filatures, Madras.

In pursuance of the correspondence that has taken place between us re: the acquisition of the Kollegal Silk Filatures Ltd., the Directors met today and their considered views are enclosed in the appended memorandum. The Board would be greatly obliged if you would kindly give your best consideration to the various points mentioned therein and place them before Government with your kind support.

I tried to get at you on the phone today but found that you were busy at a conference in the Secretariat. Any further information or particulars required will be gladly furnished.

Directors Messrs Subbarama Chetty and Ganesa Ayyar were anxious to return to Bangalore this evening itself, while Mr. Appadurai Pillai wants to return to Ootacamund to-morrow. They therefore decided to forego the pleasure of meeting you and having a personal discussion.

Memorandum of the Board of Directors.

1. The valuation has generally proceeded not on the present market rates of materials and buildings and it is not clear to the Board on what basis exactly the valuation has been made.

Land. Land has been valued by the Director of Industries at Rs 3,000/ This apparently does not take into account the value of wells on the premises and their fittings. Inclusive of these two items the value of the land amounts to Rs 7265/- according to the last balance sheet, which is in the Board's opinion fair and reasonable. Even this figure relates to the prewar period when lands and wells were much cheaper. Unlike the sites purchased by Government for their Filature, the lands in question are situated opposite the influential and rich village of Mudigondan. Besides, they have acquired an additional value due to the fact that a Factory has sprung up on them and has been in working order for some years. They were not a piece of waste land hereafter to be developed into a Factory site.

Buildings. The value adopted by the Director of Industries is Rs 28,500/- while the value according to our last balance sheet is Rs 30185/- This valuation has proceeded on the basis of the prewar prices of materials and labour; but the present rates are more than double the former rates. The plinth area of the buildings on the site is about 17;000 sq.ft. Valuing at Rs 3/- per sq.ft., the amount works out to Rs 51000. The Board understands that the rates now allowed by Government in respect of the New Filature are very much higher despite the fact that the materials used are country wood and country wooden frames and rods. The Board considers that Rs 50,000/- would be a fair valuation for the buildings.

Basins. 150 basins cost the Concern about Rs 39,750/- allowing for depreciation at 5% per year for the last four years the value of the basins amounts to Rs 32,000/- This valuation is very modest having regard to the fact that all the basins have not fully worked during the period and do not admit of full depreciation. Besides there was some delay in the receipt and fitting up of the additional basins and all the basins have never been at work simultaneously. However the Board has not made any deduction on the annual depreciation on this account.

The value set by the Director on the basins Rs 17,375/- falls very much short of their real value.

It has also to be mentioned that the basins in question are of copper and aluminium unlike the stoneware basins now intended upon by Government for their New Filature.

The present market value of the basins of the Italian type is at least Rs 500/- per basin; at this rate the value of 150 basins amoun to Rs 75,000/-. It has to be remembered that metallic basins are not

the same as stoneware basins as they are meant to last for 60 years.

Plant and other equipment. The figure adopted by the Director is Rs 10125/- This figure has at least to be doubled considering the present value of plant and machinery.

Items not provided for by the Director. The cost of trained labour. The Government have taken over the Fadtory as a going concern. But the Director has not allowed any compensation for the cost incurred in training the staff and labour. Government themselves offered Rs 60/- per basins to cover the cost of training. At this rate, this item works out to Rs 9,000/- The Mysore Filatures have claimed Rs 125/- per basins on this account. This would amount to Rs 18750/-, The Board urges that Rs 15000/- would be a fair valuation of the trained labour and staff.

Preliminary expenses, brokerage and commission. The concern has spent a sum of Rs 7298/-. Since Government have acquired this concern compulsorily under ~~the Defence of India under~~ the Defence of India Rules, 15% addition over and above the value has to be awarded for the compulsory nature of the acquisition on the analogy of the acquisitions effected under the Land Acquisition Act. The Board would urge upon Government the addition of this percentage.

To sum up, the company claims a compensation of Rs 192642 as detailed below:

Interest: Provision has also to be made for payment of interest on the total value of Rs 192642 to be paid to the company at 6% from the date of Government took over the Factory - namely 16th March 1943 up to the date of actual payment.

The Board was under the impression that the Kollegal Silk Filatures would be taken over by Government for the duration of the war and that the Factory would be restored to the company when the hostilities cease. As an alternative, Government may work the concern to meet the present need and restore it to the company when it is no longer needed, the company being paid reasonable compensation during the period, to be distributed among the shareholders so that the company may be kept alive and restored to status qua ante when the need for Government working the concern ceases to exist.

Details of compensation demanded:

	Rs		
1. Lands and wells thereon with their fittings.	7265	0	0
2. Buildings	50000	0	0
3. Basins	75000	0	0
4. Plant and other equipment.	20250	0	0
5. Cost of trained labour.	15000	0	0
	167515	0	0
plus 15% ~~per~~ compulsory acquisition.	25127	0	0
Total Rs	192642	0	0

Valuation as at 31-3-43.

	Details of depreciation.	Cost less depreciation.	Valuation as on 31-3-1943.
1. Land (at cost) - As per last Balance Sheet			7,265 10 0
2. Buildings (at cost) - As per last Balance sheet		32,989 10 4	
Less Depreciation written off to end of 30-6-42	2,804 10 4		
,, ,, from 1-7-42 to 31-3-43	618 9 0	3,423 3 4	29,566 7 0
3. Plant and Machinery (at cost) - As per last Balance sheet		50,141 2 5	
Less Depreciation written off to end of 30-6-42	7,831 2 5		
,, from 1-7-42 to 31-3-43	1,880 4 0	9,711 6 5	40,429 12 0
4. Tools and Equipment (at cost) - As per Balance sheet		3,234 13 6	
Less Depreciation written off to end of 30-6-42	1,189 13 6		
,, from 1-7-42 to 31-3-43	242 10 0	1,432 7 6	1,802 6 0
5. Scientific Instruments (at cost) - As per last Balance sheet		750 0 0	
Less Depreciation written off to end of 30-6-42	300 0 0		
,, from 1-7-42 to 31-3-43	56 4 0	356 4 0	393 12 0
6. Purchase and Dead stock (at cost) - As per last Balance sheet		261 5 9	
Less Depreciation written off to end of 30-6-42	60 5 9		
,, from 1-7-42 to 31-3-43	24 8 0	84 13 9	176 8 0
7. Carts, cycles etc. (at cost) - As per Balance sheet		213 8 0	
Less depreciation written off to end of 30-6-42	42 8 0		
,, from 1-7-42 to 31-3-43	16 0 0	58 8 0	155 0 0
8. Livestock (at cost) As per last Balance sheet		172 0 0	172 0 0

23

D.O.No.2166/D/43.

Director of Industries
and Commerce,
Madras, 11th June 1943.

My dear Khan,

Subject: War - Defence of India Rules - The Kollegal Silk Filatures - Acquisition - Compensation for -

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With reference to your conversation with me on the phone I am sending you reports of the Executive Engineer on Special Duty and of Mon. R. Peychaud. I reproduce below for facility of reference the figures as recommended by the several officers.

Executive Engineer on Special Duty.

	Rs.	
1. Land. ..	.. 2,909	Removable
2. Well ..	.. 2,773	
3. Buildings.	..25,734	
4. Articles listed in List 'B'.	.. 5,080	Removable.
	36,496	

24
R

Deputy Director
(Textiles+)

1. Basins.	..	17,375
2. Machinery and stores.	..	5,344
3. Transmission (power)		650
		23,369
Total.		59,865.

R

I shall be glad to have the papers back after Government have done with them.

5040 - from p. 1 and Yours sincerely,
5344
650
11074

S.A.M. Khan, Esq., I.C.S.,
Additional Under Secretary to
Government, Development Departmen

Dlc Dept

D.O. No 7784 D1/43-8 d 2.7.43

( )

Sub: Kollegal Silk Filature, Ltd. - Immovable & movable properties acquired under the D.O.I. rules - Payment of Compensation.

Ref: Your D.O. No 2116-D/42 d 8.6.43 and 11.6.43.

I am to say that the Govt accept your proposal to pay interest at six percent per annum on the amount of compensation payable for the movable and immovable properties from the date of requisition up to the date on which the amount is paid.

2. As the amount of compensation in respect of movable properties, determined by the Govt is final under sub-rule (4) of rule 75 (A) of the D.O.I rules, prior consent of the Company for the amount to be fixed is not necessary. The Govt have accordingly accepted your proposal to pay Compensation for the movable properties on the basis of their book value and order as separately under issue sanctioning the payment of compensation for the movable properties together with the interest accrued thereon.

3 As regards the immovable

properties, the Govt of India have ruled that, when land other than agricultural land is acquired Bom pr Solatium for compulsory acquisition should not be offered and that cases in which agreement ibid cannot be reached should be reported to them. I am therefore to suggest that an offer of Rs 36,832-1-0 (land and well ~~(or cost)~~ Rs 7265-10-0; Bom/Rics, Rs 29566-7-0. as proposed by you in Bom 29566-7-0 pr 8 the draft letter to the Chairman of the Bd. of Directors Nor pr 7265-10-0 with interest at 6% per annum from the date of requisition of the Company) be made to the Company 36832-1 as compensation for the immovable properties with an intimation that if no definite reply is received within a week, the amount would be deposited in Court without any liability for payment of interest from that date. The proposals for the sanction of the expenditure in this respect and in regard to the payment of interest should be submitted to the Govt urgently as soon as the reply from the Coy is rec

of the Secy's at M on p [illegible] Govt not on p 10 ante

The Company should be informed that there is no provision in the law governing the matter of the payment of any solatium on the value of the property

This Valuation depts of the departmental officers, received with your D.O. dated 11.6.43 cited are returned herewith

y.s 21/6/43

To A. Khaleel Esq DIBe

Dept. with-wdl. Dne 3/7/43

DNP 29/6/43 pg

P. 64 29/6/43

Dev. Depn

Memo No 7784 D/43- d 27.43

Sub: Industries - Sericulture - Kollegal Silk Filatures LP. — Movable properties acquired under the D.O.I Rules - Compensation - Sanctioned.

Ref (i) G.O. No 448 Dev dated 30.3.1943
(ii) From the DIBe No 2160 D/42 d 8.6.43 and 11.6.43

The Govt direct that the Kollegal Silk Filatures LP be paid a sum of Rs 43,129-6-0 (Rupees Forty three thousand one hundred and twenty nine, annas six only), as per details shown in the appendix below, being the Compensation determined by them in respect of the movable properties of the Company acquired under the D.O.I rules. They are also pleased to allow the payment of interest on the amount of Compensation at 6% p.a. from 16.3.43, the date of requisition of the properties up to the date of payment of the compensation. The DIBe is requested to arrange to disburse the amount to the Company urgently together with interest as noted above.

2. The expenditure should be debited to "43 a. Industries - Industries - P. Sericulture Kollegal Silk Filatures".

28

3. The DTSc is requested to apply in due course for the provision of funds required to meet the expenditure in the current year. The A.G. is requested to admit the expenditure in audit pending the provision of funds later.

4. Separate orders will issue regarding the payment of compensation for the immovable properties of the Company required by the Govt

Appendix

Item.	Rs A. P.	
1. Plant and Machinery.	40429 - 12 — 0	
2. Tools and Equipment	1802 - 6 — 0	
3. Scientific Instruments	393 - 12 — 0	N
4. Furniture and dead Stock	176 - 8 — 0	
5. Carts & cycles	153 - 0 — 0	
6. Livestock	172 - 0 — 0	
Total	43,129 - 6 — 0	

To the DTSc

A.G. Thereafter

Despd 20/7/43

Spl. 1905

R.O.No. 2160-D/42.

DIRECTOR OF INDUSTRIES AND COMMERCE,

Madras, 19th July 1943.

ADDITIONAL UNDER SECRETARY TO COVERNMENT
JUL 19
DEVELOPMENT DEPARTMENT
SECRETARIAT
20 JUL 1943

My dear Sivasankar,

Subject: Kollegal Silk Filatures Ltd - Immovable properties - Payment of compensation -

Reference: Government D.O.No.7784-Di/43, dated 15th July 1943.

I communicated the Government's decision in the matter to the Chairman and the Managing Director of the Kollegal Silk Filatures, Ltd. A copy of an extract from the Proceedings of the metting of the Board of Directors held on 17th July, received by me on the 17th is enclosed. The Board of Directors have not accepted the offer made.

Yourssincerely,

Director of Industries and Commerce.

To

Sivasankar Esq., I.C.S.,
Secretary to Government,
Development Department.

PROCEEDINGS OF THE MEETING OF THE BOARD OF DIRECTORS OF KOLLEGAL SILK FILATURES LTD. HELD AT " VENKATA VILAS" GREAMES ROAD, CATHEDRAL POST, MADRAS, AT 4 P.M. ON THE 10TH JULY 1943.

I. The following were present:-

1. Dewan Bahadur T.Raghaviah C.S.I (Chairman).
2. Rajasevasakta P. Subbarama Chetty Garu.
3. Mr. M.S. Ganeshaiyar.

Dewan Bahadur A. Appadurai Pillai wrote expressing his inability and his letter was read and recorded.

II. The minutes of the last meeting of the Board dated 5th June 1943 were read and confirmed.

Read and considered the reply of the Director of Industries and Commerce to the Government of Madras No.2160-D/42, dated 5th July 1943 to the Memorandum sent by the Board of Directors.

(a) So far as the land and wells are concerned, the Director has accepted our value of Rs.7,265-1`-0.

(b) As regards buildings, we have claimed Rs.50,000 on the basis of the present market value of building materials and labour. The figure given by the Director of Industries (i.e) Rs.29,566-7-0 is based on the book value which does not at all represent the present market value and cannot therefore be accepted.

(c) Plant and machinery including Basins being permanently fixed constitute immovable property. Since the Government valuation as per their Memorandum No.7784-D-1/43-9, dated 2nd July 1943 is not based on the present market rates, the Board regrets that their figure of Rs.43,129-6-0 against the Board's claim of Rs.95,250/- cannot be accepted.

32

-2-

(d) The claim of Rs.15,000/- for handing over the Fi tures as a growing concern with trained labour and staff has not been considerdd by the Director of Industries. The Board presses this claim once again. It considers the claim to be eminently fair and reasonable.

R

(e) Although there may be no specific provision in the Defence of India Rules for the payment of 15% over and above the valuation, the Directors feel that, in view of the compulsory nature of the acquisition and the deprival of all opportunity of further income to the Company from the concern, this claim should in fairness and equity be allowed. The Board would therefore earnestly request the Director of Industries and Commerce to move the Government again to grant in full the compensation of Rs.1,92,642/- claimed by us.

See (A)

III. Meanwhile the amount of Rs.79,961-7-0 plus interest of 6% per annum from 15th March 1943 will be received on account under protest and without prejudice to our claim set forth above and also in our memorandum dated 5th June 1943.

para 20 above

IV. The Directors wish to bring to the notice of the Director of Industries and Commerce that the real value of the concern is reflected in the market value of the Company's shares which were selling at about the time of acquisition at about Rs.15/- per share i.e. at a premium of about 50%.

43129-6-0 movables
36.832-1-0 immovables
79,961-7-0

Draft I 2 drafts 33

Pl. write back

Memo No 7784 D1/43-12 d 28.7.43. Dev. Dept

Sub: Industries - Sericulture - Kollegal Silk Farm - Immovable properties acquired under the D.O.I rules - Compensation.

Pp 29-32 cf Ref: From the DIBC No 2160 D/42 d 19.7.43.

The Govt authorise the DIBC to pay to M/s Kollegal Silk Farm a sum of Rs 36,832-1-0 (Rupees Thirty-Six thousand eight hundred and thirty two, anna one only) being the Value of compensation fixed for the land and well and the buildings acquired under the D O I rules. He is also permitted to pay interest, calculated at 6% p.a on the amount of compensation for the

R on pp 26 cf.

22/34

period from 16.3.43 to the date of payment of the Compensation.

Appeal

2. The expenditure shall be debited to '43 a. Industries - Industries - P. Sericulture. Kollegal Silk Farms.

Sdr 24/3/43 Sdr 25/3/43 25/3/43 28/3/43

To The Dy Dte A.G. Mys. Bg

P T.O

Dy Dte Sdr 28.3.43

Draft VII

Dev. Dept.

35

Confidential

D.O. No 7784 DI/43-13 d 28.7.43

Sub: Industries - Sericulture - Kollegal Silk Filatures. - Payment of Compensation

Ref Your D.O No 2160 DI/42 d 19.7.43

With reference to the resolution of the Board of Directors of the Kollegal Silk Filatures Ltd. that the plant and machinery including boilers constitute immovable property, it has been suggested that anything attached to earth or permanently fastened to anything attached to earth

Kollegal Silk Filatures Ltd. p 29-32 cf

X or Ltr 31 cf

Legal note etc p 23 Ref.

30
If is immovable property and not movable property. — Vide Sections 3(25) and 3(34) of the General clauses Act, 1897. It is a Question of fact whether any particular plant or machinery is or is not attached to earth or permanently fastened to any thing attached to earth. In the light of this definition of immovable property, it is now necessary to examine which of the items of movable properties for which Compensation was fixed in Govt memo no 7784 DI/43-9 d 26.7.43 will fall in the Category of 'immovable property'. I am to request that the

of A on p 23 ng

'ibid

* Appendix al- p 28 cf

— pp 27-28 cf

Question be further examined urgently and 87 5
a report submitted to the Govt expeditiously.

Y on p 32 cf.

2. As regards the request of the Coy for a reconsideration of the amount of Compensation offered to it by the Govt in respect of its properties, I am to suggest that the Company be asked to apply in writing through you for the appointment of an arbitrator. The application should

Vide N on p 25 ante.
& para 7 on pp 7-9 of (M)

para 7, pp 7-9 (M)

State clearly the reasons for its disagreement with the offer made by the Govt in respect of immovable properties the amount claimed and the grounds on which the claim is based. In

forwarding the application, you may submit
a detailed report setting forth the full facts
of the case, particularly as regards the
nature and extent of the disagreement
between the Coy and the authority acquiring
the properties. All relevant records connected
with the application should be sent with
your report. The Govt will then
appoint an arbitrator under Section
19(1)(b) of the Defence of India Act

B on p 9 M

para 8, p 9 (M)

25/7/43

25/7/43

28/7/43

To A. Chakravarti Esq
I.C.S
D.S.C
Dept
Sd
25.7.43

D.O.No.2160-D/42. 39

Director of Industries
and Commerce,
Madras, 25th August 1943

ADDITIONAL UNDER SECRETARY TO GOVERNMENT
DEVELOPMENT DEPARTMENT
24438
ADDITIONAL UNDER SECRETARY TO GOVERNMENT
DEVELOPMENT DEPARTMENT

My dear Khan,

Subject: Industries - Sericulture - Kollegal Silk Filatures - Payment of compensation.
Ref: Your D.O.No.7784 DI/43-1 dated 10th August 1943.

Reminder at p3 of (V) Pleader's paper.

Peychaud and Gopala Ayyar who were referred to in the matter have submitted their reports. I am now consulting the Government Solicitor and shall submit my report on hearing from him.

Yours sincerely,

S.A.M.Khan Esq., I.C.S.,
Addl. Under Secretary to Government,
Development Department,
Fort St.George, Madras.

Dev Dept

To Addl Sec.

For personal. D I &C's report may be awaited till 5.9.43

25/8/43. S. may see.

Dev 23843 DI 23843

Dev. Dept

D.O. No 7784 DI/43-15 d 27.8.43.

( )

Sub: Industries – Sericulture – Kollegal Silk Filatures – Payment of compensation.

Ref: Your D.O. No 2160 D/42 d 20.8.43.

I am to ask you to get p39 cf. or p39 of the advice of the Govt Solicitor quickly and to submit your report to the Govt expeditiously.

( )

26.8.43 26.8.43

27/8/43

Dept 28/8 27/8

To A Khaleeli Esq I.C.S
DISC

42

GOVERNMENT OF MADRAS
Development Department.

PRESS NOTE NO. 152,
Dated, M a d r a s, the 3rd August 1942.

The scheme for the supply of yarn to handloom weavers drawn up by the Government of India will be brought into force in this Province with effect from the 15th of August 1942. Under the scheme the entire process of distribution from the Mill to the Consumer will be controlled through the machinery of licensed dealers and the sale of yarn by anybody other than a Mill or a licensed dealer will be strictly prohibited. With effect from 15th August 1942 no person other than a person acting on behalf of a cotton spinning Mill, shall sell, store for sale, or conduct any business in cotton yarn unless he has a license in the prescribed form issued by the Provincial Yarn Commissioner. No such license is necessary for a person selling, storing for sale, or carrying on business in cotton yarn spun by him or the members of his family.

Applications for license has to be made in the form prescribed (FORM A). For the convenience of merchants, applications forms have been printed and will be available at the offices of Deputy Tahsildars, Tahsildars and Collectors. If a printed form is not easily procurable, there is no objection to sending the application in manuscript.

C.P. KARUNAKARA MENON,
Secretary to Government.

R.A.C.

D.O.No.2160-D/42.

Director of Industries and Commerce,
Madras, Dated 31st August 1943.

V.V.S. 7/9/43

My dear Sivasankar,

Sub: Sericulture - Kollegal Silk Filatures Plant and machinery - Compensation - Payment of.

26991 pp 35-38 above

Ref: D.O.No.7784-DI/43-13 dated 28th July 1943.

pp 35-37 above

Para. 1 of your D.O. cited:

I enclose for the information of Govern-
pp 45-47 below ment copies of letters received from Peychaud, Gopala Ayyar and the Government Solicitor on the above subject. The plant and machinery in the Kollegal Silk Filatures comprises of two boilers, one steam engine and reeling basins. The Government Solicitor is evidently of opinion that all these constitute immovable property.

A

So far as the reeling basins and the steam engine are concerned, they present no difficulty in the light of what the Government Solicitor has stated; they may be regarded as immovable property. The case of the boilers is, however, different. They are not fixed to the earth directly and as such I see not much reason to consider them immovable property. It is reported that the feed pump of one of the boilers is fixed to the floor and that the pipe connections of the feed pumps of both the boilers are interconnected. This fact does not I think materially alter the "movable" character of the boiler. According to the Government Solicitor, "if a thing can be detached and can change its "place without injury to the thing itself or the "premises in which it stands, it is only movable "property". Applying this definition to the case of boilers, I must say that they are not immovable property; they can be moved from place to place without damage to them or to the premises.

B

HH

Para. 2 of your D.O. — pp 37-38 ante

I have communicated Government's orders in the matter. I have not heard anything from the Company as yet.

Yours sincerely,

T. Sivasankar Esq., I.C.S.,
Secretary to Government,
Development Department,
Fort St. George, Madras.

I

Copy of D.O.149-FL/43 dated 2nd August 1943 from Mon. R. Peychaud, Kollegal Silk Filatures, Kollegal.

Sub: Industries - Kollegal Silk Filatures Ltd., - Payment of compensation.

Ref: Your D.O.No.2160-D/42 dated 29-7-43 enquiring from me as to whether the plant and machinery including basins constitute immovable property.

The machinery here is comprised of 2 boilers one steam engine and reeling basins. The boilers are of locomotype which appear to be simply resting on the foundations. The steam engine is fixed to ~~xxxxxxx~~ four rag bolts that are sunk in cement foundations. The reeling machinery is in most cases not even bolted to the floor. In some cases however the flooring appears to have been rebuilt and the feet of the stands are sunk in the cement flooring.

I do not think personally that by any stretch of imagination any of these machinery can be defined as permanently fastened to anything attached to the earth. However, it might be useful if any person having experience of such matters was asked to see the plant and give their opinion.

--

Copy of letter dated 17-8-1943 No.882/43 from Sri S. Gopala Ayyar, Special Engineer, Government Silk Filatures, Kollegal.

-- II

Sub: Kollegal Silk Filatures, Kollegal - Payment of compensation.
Ref: Dir.'s Memo.No.2160-D/42 dated 7-8-1943.

In company with the Assistant Electrical Engineer, I visited the Kollegal Silk Filatures, Kollegal on 16-8-1943 and inspected the machinery under reference. The basin tables and reeling frames have been either buried into the floor or attached to the floor by means of cement mixture or fastened by means of steel wire buried under the floor, except in the case of 14 basins the tables of which are simply resting on the floor. But the reeling frames attached to these 14 basins are built into the floor. Further they are connected by means of brake rods, to the reeling frames which are fixed to the floor and to other basins which are fixed to the floor by means of steam and water pipe connections.

Both the boilers are simply resting on the foundations provided for them and are not fixed by means of any foundation bolts. But the feed pump of one of the boilers is fixed to the floor by means of foundation bolts. Although the feed pump of the other is not so fixed to the floor, the pipe connections of the feed pumps of both boilers are interconnected.

As regards the steam engine, it is fixed to the floor by means of foundations and foundation bolts.

The above are the facts. Portions of reeling frames and basins which are simply resting on the floor could be detached and removed if bolts and nuts, shaft couplings etc., connected to the rest are removed. It is therefore difficult to decide whether such portions forming part of a row of frames or basins are to be considered as movable or immovable. In the circumstances, it would appear desirable to have the machinery inspected by some expert thoroughly conversant with the law on the subject before deciding which items are movable and which not.

The Assistant Electrical Engineer is in entire agreement with above.

--- III

Copy of letter No.2611 dated 26th August 1943 from the Government Solicitor, Madras.

Kollegal Silk Filatures Ltd.- Compensation - Payment of.

--

With reference to your letter No.2160-D/42 of the 20th inst with its enclosure I may explain that anything "attached to the earth" or "permanently fastened to anything else attached to the "earth" would be immovable property. The Transfer of Property

Act defines the phrase "attached to the earth" as meaning:-

(a) rooted in the earth, as in the case of trees and shrubs,
(b) imbedded in the earth, as in the case of walls or buildings, and
(c) attached to what is so imbedded for the permanent beneficial enjoyment of that to which it is attached.

The word "attached" does not necessarily mean attached by some physical fastening such as screws or bolts or cementing and a plant or machine weighing several tons which cannot be and never was intended to be lifted, would not in law be regarded as moveable property merely by reason of the fact that it was not fastened in some way to some part of the building in which or the land on which it stood. In other words the word "attached" does not mean "physically fastened". Accordingly heavy machinery kept in a fixed position by its own weight has to be regarded in many cases as immoveable property and any necessary part of that heavy machinery, without which the machine as a whole could not properly function, must be regarded as of the same kind as the bulk of the heavy machinery, viz., as immoveable property, even though it can be detached without injury to the foundation of the building or stand on which it is placed. The distinction between moveable and immoveable property has sometimes been shortly stated in this way:-

> "If a thing cannot change its place without injury to the thing itself or the premises in which it stands, then it is immoveable; if, on the other hand, it can be detached and change its place without injury such as aforesaid then it is only moveable property."

The question whether any particular plant or machine or other object is immoveable or moveable property is a matter of fact which must be decided by the inspector in this case on a personal inspection of the machinery, etc., keeping in view the above remarks and definitions.

It would appear to me that the basin tables and reeling frames buried into the floor or cemented to the floor or fastened thereto by means of steel wire buried under the floor are definitely immoveable property. So far as regards the 14 basins the tables of which are simply resting on the floor if they are a necessary component of the reeling frames or, in other words, if the basins or reeling frames are necessary to each other and to the whole plant, since the reeling frames are built into the floor, the 14 basins would also have to be regarded as immoveable property. They seem not only to be fixed by brake rods to the reeling frames but also fixed to other basins which are thus fixed to the floor by means of steam and water pipe connections, and this latter fact strengthens the case for them being regarded as immoveable property.

The case of the boilers is more difficult. They themselves are not fixed by means of any foundation bolts to their foundations but they are no doubt heavy components intended to be permanently placed where they are in relation to the rest of the plant and certainly not intended to be moved from time to time or at any time to other foundations or places in the factory and the feed pumps connected to them appear to be integral parts thereof and, although one feed pump is not itself fixed to the floor, it is practically so fixed by reason of the feed pumps and the boilers all being interconnected. The boilers and feed pumps also, therefore, in my opinion, are immoveable property.

The steam engine is probably a heavy machine weighing perhaps several tons and, at any rate, is fixed to the floor by means of some kind of foundations and foundation bolts. Whether it could be moved from one place to another without injury to the buildings or the foundations, nevertheless, it is probably to be regarded as an integral part of the entire plant without which the rest of the plant could not properly function and, in this view, it also would probably be regarded as immoveable property .

47

C.F.17.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ..		
When copied ..		
When examined..		
When signed ..		
When despatched		

SUBJECT:—

War - Defence of India Rules - Acquisition of immovable properties - Kollegal Silk Filatures Ltd., - Payment of compensation Appointment of Arbitrator.

READ AGAIN G.O.No. 311 Dev., , dated 12-3-1943; 19
G.O.No. 448 Dev., " 30-3-1943.

19

READ *ALSO*:—

No. From the , No. , dated 19.

" " " " " 19.

" " " " " 19.

Order / ~~Resolution~~ Ms. / ~~Rout.~~ No. 2436, dated 30 — 9 — 1943.

In G.O.No. 448 Development dated 30-3-1943 the Govt. of Madras acquired, under the Defence of India Rules, certain movable and immovable properties of the Kollegal Silk Filatures Ltd. A compensation of Rs. 43,129-6-0 for the ~~I~~movable properties and of Rs 36,832-1-0 for the immovable properties was offered to the Company. The Company has received the compensation under protest. As no agreement has been reached between the Govt. and the Company in regard to the amount of compensation payable for the immovable properties, the Govt. have decided to appoint an arbitrator to determine according to law, the proper amount which should be paid to the Company as compensation.

Under section 19(1)(b) of the Defence of India Act, 1939 (XXXV of 1939), His Excellency the Governor of Madras is hereby pleased to appoint Sri Rao Sahib C. Satyanarayana Choudury, B.A., B.L. District and Sessions Judge, Coimbatore as ~~an~~ arbitrator to ~~give~~ fix the amount of compensation to be paid to the Kollegal Silk Filatures, Limited, in -

p.t.o.

48

respect of the immovable properties of the Company acquired in pursuance of G.O.No. 448 Development dated 30-3-1943.

2. The Director of Industries and Commerce is requested to produce before the arbitrator all evidence relevant to the case.

To

Sri Rao Sahib C.S. Choudury,
Dt. and Sessions Judge,
Coimbatore.
The D.I.& C., Madras.
The Kollegal Silk Filatures,
Ltd., Thro' the D.I.& C.
(Para 1 only).
The Hon. The Chief Justice, High Court, Madras.
Two Spare Copies

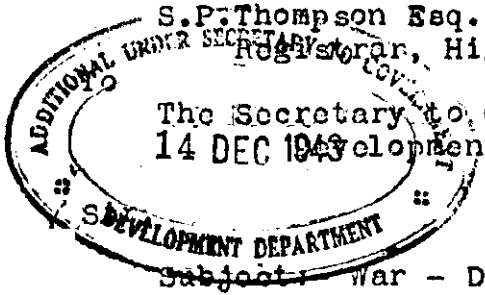
R.O.C.7225/43-B.2.

49

242

From

S.P.Thompson Esq., I.C.S.,
Registrar, High Court of Judicature, Madras.



The Secretary to Government of Madras,
14 DEC 1943 elopment Department (~~with annexture~~).

Dated 13th December 1943.

Subject:- War - Defence of India Rules - Acquisition of immovable properties - Kollegal Silk Filatures Ltd. - Payment of compensation - Arbitrator.

Reference:- G.O.No.Ms.2436, Development dated 30th September 1943.

(P)

The District Judge of Coimbatore asks that he may be permitted

permitted to hold the enquiry in the matter of awarding compensation to the Kollegal Silk Filatures Limited at Kollegal. I presume that there is no objection to this.

REGISTRAR.

PK.

Dev. Dept. 5/

Memo. no. 43242 D/43-1 d. 22.12.43

Sub: War - Defence of India Rules - Acquisition of immovable properties - Kollegal Silk Filatures Ltd. Payment of Compensation - Arbitrator

pp 47-48 of (P)
pp 1-2 of

Ref: (i) G.O. no. MS. 2436 Dev d. 30.9.43
(ii) From the Registrar, High Court of Judicature, Madras. no. R.O.C. 7225/43-B.2 d. 13.12.43

Backs

There is no objection ~~for~~ to ~~permitting~~ the District Judge of Coimbatore ~~to hold~~ holding the enquiry at Kollegal in the matter of awarding Compensation to the Kollegal Silk Filatures Ltd.

~~at Kollegal~~

ASST. SECRETARY TO GOVERNMENT
18 DEC 1943
FINANCE DEPARTMENT

ADDITIONAL UNDER SECRETARY TO GOVERNMENT
DEVELOPMENT DEPARTMENT

Dated 43 Rc. D/43-1 2/5 DEC 1943 Dr. 16,124

To The Registrar
High Court of Judicature
Madras

Copy to D.F.C.

22.12.43

17/12/43

Finance (Accts B)
The draft memo. may be accepted
21.12.43 DEVFIN
Finno 43583 Accts B/1
21-12-43

# of Madras

12.43 1514

RTMENT

Clerk

nuary 1939

ıcational Service—Lecturer in Lady
-Amended.

---

ed 4th June 1935.

ber 1938 (amendment last issued).

y 1939.

e *Fort St. George Gazette* :—

of sub-section (2) of section 241 of the
is hereby pleased to make the following
Service published with Public (Services)
at pages 1020 to 1024 of Part I of the
quently amended :—

ub-rule shall be substituted, namely :—

ategory 2 of Class VIII in the post of
referred to in the proviso to the qualifi-
e rules shall, within the prescribed period

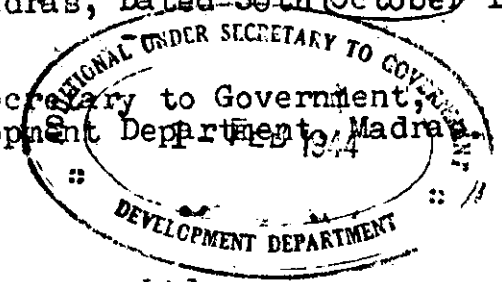
GC.27 D/49

No.363-D/44.

Office of the Director of Industries & Commerce, Madras, Dated 30th October 194

From
A.Khaleeli,Esq.,I.C.S.,
Director of Industries &
Commerce, Madras.

To
The Secretary to Government,
Development Department, Madras.



Sir,

Sub: Industries - Kollegal Silk Filatures Ltd.
--

The Managing Director of the Kollegal Silk Filatures Ltd., has requested me to ascertain from Government whether there is any chance of the company getting back the Kollegal Silk Filatures acquired by Government after the war is over or after the Government purposes are served. I request Government's instructions in the matter.

for Director of Industries & Commerce.

pr.31-1.

P.T.O

54

Dev Dept

To Addl A S

Please see the letter overleaf.

It is not possible to express an opinion now on the Question raised by the Company. The buildings & properties have been acquired outright and the Govt have the ultimate power to dispose them off in any manner they like. Reference is invited to the note at A & R on p 25 ante of the Digest will be informed accordingly

Govt Hyderabad

Govt

This enquiry has presumably been made in connection with the contemplated proceedings against Government questioning the legality of acquisition proceedings taken under the Defence of India Rules. The Director may be informed that the consideration of the question of disposal of the properties ~~now~~ by Govt acquired is premature and that a decision on the question ~~may with~~ appropriately be taken after the war.

55 47
Dev. Dept

To Addl. A.S.

With reference to orders on p2 above, a draft memo to the D. Dev is submitted for approval

12-2-44

[Issued as Memo. no. 602/D/44 - dd. 14.2.44]

Inve 48/15/2 Dec. 57

Memo. no. 6027D/44–1d 14.2.44

14/2/44

Sub: War – D.o.I. rules Acquisition of ~~movable~~ properties of Kollegal Silk Filatures Ltd. – Question of disposal after the w

Ref: From the D. I & C., no. 363D/44 d 30.1.44

~~The D. I & C. is informed that~~ The Consideration of the question of disposal of the properties acquired by Govt. is premature ~~and that~~ no decision on the question will be taken after the war

So orders

12.2.44 12/2/44

To The D. I & C.

Dno 888/12/2

Government of Madras

PUBLIC (SERVICES) DEPARTMENT

G.O. No. 930, 9th June 1939

Business Rules and Secretariat Instructions—Dealing with charities, charitable institutions or charitable endowments—Secretariat Instruction No. 83-A—Issued.

Order—No. 930, Public (Services), dated 9th June 1939.

Under rule 16 of the Madras Government Business Rules, His Excellency the Governor of Madras is pleased to make the following amendment to the Madras Government Secretariat Instructions, namely :—

AMENDMENT.

After Instruction 83 of the said Instructions, the following shall be inserted, namely :—

" 83-A. A case relating to a charity, charitable institution or charitable endowment, which makes provision for a subject dealt with not in the Education and Public Health department but in some other department of the Secretariat, shall be dealt with in the latter department, but any general questions raised therein shall be referred to the Education and Public Health department before orders are passed."

(By order of His Excellency the Governor)

G. T. BOAG,
Chief Secretary.

To the Education and Public Health Department.
" Local Administration Department.
" Revenue Department.
" Other Departments of the Secretariat (all sections).
" Secretary to His Excellency the Governor.
" Secretary to the Madras Legislature.
" Public (Library) Department.
" Superintendent, Government Press, *for issue of correction slip* to Madras Government Business Rules and Secretariat Instructions.

NOTES

Dlw Dept

Sub: War - D.O.1. Rules - Kollegal Silk Farms - Acquisition of movable and immovable properties — Payment of Compensation

Cno 7784 D1/43. Ref ppl cf Issued as Memo No 7784 D1/43 - 1 dt 16.4.43 to DE.
pp 3-4 cf. From the DE Do No Nil dt 18.4.43
pp 7-8 cf Issued as D.O. No 7784 D1/43 - 2 dt 27.4.43 A
pp 13-21 cf. From the DE, D.O. No 2160 D/42 dt 8.6.43

To Add U.S.

Please see the instructions issued to the DE in regard to the submission of a report on the exact amount of Compensation payable to the Kollegal Silk Farms Ltd for immovable and immovable properties acquired by the Govt under the D.O.1 Rules. An Executive Engineer was appointed to value the immovable properties; the DE was instructed to adopt the Valuation of machines, works etc made by M/s Peychand for the payment of Compensation for immovable properties. In his D.O. at pp 13-14 cf. the DE seeks the approval of the Govt for offering the Company a total Compensation of Rs 85486-4-0. as against their claim for the payment of a sum of Rs 1,92,642. The draft of a reply proposed to be sent by the DE to the Chairman of the Company is also submitted by the DE for approval before issue.

pp 9-10 cf (S) 30448 30340

pp 7-8 cf.

A on p 14 cf

Cf N at pp 17-18 cf

in front of immovable

E on p 20 cf

pp 15-18 cf.

p 11 cf

2. The DE has not submitted the deposit of the Special Officer in respect of the Valuation

of the immovable properties. The ~~table~~ Statement at M on p 17 cf. Revenue gives particulars of the Values of immovable properties and of ~~im~~movable properties made by the Departmental Officer. As explained by him at p 13 cf, the DIRC suggests that the book Value of Land and buildings and of plant and Machinery may be accepted subject to the deductions for depreciation etc, indicated in the Statement at N on pp 17-18 cf. Under Sub-section (4) of rule 75A of the D.O.I rules, the owner shall be paid such Compensation as may be determined by the Court in respect of movable properties. The basis of valuation of movable properties adopted by the DIRC seems fair and equitable and may perhaps be agreed to. For orders.

A

As regards immovable properties, the claim made by the Company is far in excess of the valuation made by the DIRC on the basis of book value. It does not appear likely that the Company will agree to accepting Rs 42,356-14-0 for Rs 57,265/- claimed by it on this account. Under Sec 19 of the D.O.I Act, the central Govt shall appoint an Arbitrator to determine the Compensation in respect of the immovable properties acquired under the D.O.I Rules, if no Satisfactory agreement can be reached. In view of the fact that the tentative amount offered by DIRC includes a solatium of 15%, over the book value of land & buildings, it is for

* Executive Engr & Per, etd

p 127 of Folder of DOI Rules

® Items 1, 2 & 3 in the Statement at pp 17-18 cf

✓ Vide Sl No 17 at p 17 cf

p 21 of the Folder of DOI Rules

? C on p 17 cf

X Item 13 at p 18 cf

Vide X on p 17 cf & Sec 19 of DOI Act at p 21 of Folder

Considerations wherein the Valuation will be deemed Equitable and the D.I.Dc's suggestion accepted. It is submitted that the question of reference by an arbitrator be left to be considered later, if the Company chooses to reject the offer of the D.I.Dc. for orders.

para 3, pp 13-14 of. Vide A on p 17 of. Payment of Interest The properties were acquired on 16.3.43; no amount has so far been paid by way of compensation. The Company

M on p 20 of. has asked that it be paid interest at 6%, on the amount of Compensation payable to it, with effect from 16.3.43

or C The D.I.Dc requests orders of the Govt wherein interest at 6% will be allowed. For orders.

pp 15-18 of. The draft reply to the Company forming the basis for an agreement on the payment of

C & C on p 17 of. Compensation will be in order, if the proposals at A, B & C at pp 2-3 above are accepted by the Govt. The case may be sent to the Dept for remarks before the draft is approved. For orders.

AR 10.6.43 DDR 10.6.43

The compensation proposed by the D.I.C is reasonable & may be accepted. The draft letter to the Co. may be approved. Interest at 6% on compensation amount may be allowed for the date of Acquisition

The may be sent to the Govt.

10/6/43. Ad. S.

Ask the D.I.C to submit at once Govt's Valuation Report

4

Compiled
Remarks of the Ex. Chief Engineer & Special Duty Officer Mr. Peychaud.

To Addl. J.S.

The immovable properties of the filatures were valued by a special engineer appointed for the purpose and the plant and machinery by Mr. Peychaud, incharge of the filatures. The valuation reports are at (I) (N) & (H). The value of the properties - assessed by the departmental officers, the amount of compensation asked for by the Board of Directors of the filatures and that - suggested by the Director of Industries & Commerce are as shown below:--

Properties.	Valuation made by departmental officers.	Compensation asked for.	Compensation proposed.
1. Land & well.	5682	7265	7265
2. Buildings.	25734	50000	29566
3. Plant and machinery etc.	28449	95250	43130
15% for compulsory acquisition.	---	22877	5525
	59865	175392	85486

In view of the fact that the prices of materials required for the construction of buildings and prices of plant and machinery have gone up between 100% to 300% the Board of Directors are not likely to agree to the valuation made by the departmental officers. The Director's suggestion to base the amount of compensation to be paid on the book value of the properties plus 15% solatium in the case of land and buildings minus depreciation, seems reasonable. For orders whether the Director's suggestion will be accepted.

Orders on portion C of the note on p. 3 above are also requested. The remarks of Finance may be invited.

14643

There is not much difference between the proposed compensation by Dept: Officers and the valuation in respect of items 1 & 2: the proposal of the Dir. may be accepted.

There is considerable difference in respect of item 3. It would be safe to depend upon the valuation of the

the D.I.C. because it is based upon the book value in 1943, whereas the valuation made by Pechard pertains to the existing machinery, ~~Certain items he has taken $\frac{1}{2}$ of value in 1937, and for certain others~~ he has allowed only $\frac{1}{2}$ of the book value of the machinery in 1937. It must not be forgotten that the value of machinery must have doubled since 1937 & 1943 on account of the war.

The valuation of the Director is moderate & may be accepted.

14/6/43. Ad. S

Finance may file for remarks.

D. 15/6/43

Dev. No. 7784-D/43-4

11 15.6.43.

Finance (Accounts.B)

15918 Accts

The case relates to compensation payable to the proprietors of the Kollegal Silk Filatures Ltd., the immovable and the movable properties of which have been acquired by Government under the Defence of India Rules on 16th March 1943. The valuation of the properties made by the officers appointed by the Government for the purpose, the compensation asked for by the Board of Directors and the compensation proposed by the Director of Industries and Commerce compare as shown in the statement at Fl.(A)

2. Item I in the statement - Immovable properties -- Please see portion Z on p. 15 C.F. regarding the basis on which the Special Officer has fixed his valuation. For the reasons stated in paragraph 1 of his D.O. on p.13 C.F. the Director of I & C, recommends payment of compensation

at 2½ % (presumably p.a.)
on the basis of book value less depreciation to end of March 1943, plus 15% solatium. Compensation on this basis comes to Rs. 42,357 against Rs. 65,855 claimed by the Board of Directors and Rs. 36,128 due as per valuation of the Special Officer allowing for a 15% solatium he has not included in his calculations. The amount suggested by the Director of Industries and Commerce may perhaps be accepted and the Board of Directors left to resort to arbitration, if they are not satisfied with the offer.

3. Item II in the statement - Movable properties -- Here also the Director of Industries recommends payment of compensation with reference to the book value of the properties. The amount proposed by the D.I. & C. is Rs. 43,129 after disallowing 15% solatium, against Rs. 95,250 plus 15% solatium claimed by the Board of Directors and Rs. 28,449 according to the valuation by the Deputy Director (Textiles), M. Peychaud. There is no provision in the Defence of India Rules for arbitration regarding compensation for movable properties acquired under the rules and the amount fixed by the Government will be final. The compensation proposed by the D.I &C., based on book value less depreciation to end of March 1943 may perhaps be accepted.

4. Item III and IV (in so far as it relates to items II and III) - The D.I. & C., has himself disallowed these items (and 15% solatium for land & buildings) and no remarks are called for.

5. Interest on compensation from 16-3-43 to date of payment -- The necessity for the payment of interest may be conceded as the Board of Directors would otherwise have earned some interest, had the compensation been paid immediately after acquisition. As regards the rate of interest, it is submitted that the firm has earned a profit of Rs. 9,685 for the year ending 30-6-42 and this works out to about 5½ % on its capital (Rs. 1,77,695). The rate of 6% claimed by the Board of Directors does not appear excessive and may be accepted.

6. It may be incidentally mentioned that the valuation of the plant and machinery (other than boilers) as arrived at by the Departmental Officers comes to Rs 11,074 as per details given by the Director of Ind. & Com. on pages 1-2 of (H) but the figures mentioned by him in his draft letter to the Board of Directors is Rs 10,125. Dev may ascertain from the /A

DwD A Dir of I and C what the difference is due to.

It is not also clear from the note at A on page 5 of (H) whether the sum of Rs 650 is included or not in the figure of Rs 671 shown against 'Miscellaneous - Transmission Power'. If it is included, the amount need not again be added to arrive at the total valuation of Plant and Machinery as has been done by the Dir. of Ind,& Com. Devt. may be requested to clarify this point also.

Apparently it is included & should B not have been added again by D.I.C. DwD

DwD KRR 19.6.43

7 As these points do not have any bearing on the compensation proposed to be paid to the Company on the basis of the book value of the articles, as proposed by the Dir. of Ind. and Com. further action orders on the file need not be held up pending the clarification of the points mentioned at A & B above.

4

DD 18.6.43 DCB 18.6.43

KRR 19.6.43

3+X

Act (Not part) viz.

√

4 As regards land & buildings, the amount proposed by D.I.C. (including 15% solatium), Rs. 42,357, may be offered to the Coy & they may be told that, if they do not accept the offer, the matter will be referred to arbitration under § 19 of the D.of I. Act & that there is no provision for inclusion of 15% solatium or interest in the arbitrator's award. (This point may be verified from Rev. - I have no copy of the Act with me at my residence today). The Coy. may be asked to give a definite reply within a week, & told that if they accept, the Govt will also pay interest at 6% p.a. on the amount from the date of acqn to date of payment. Devt. may please ascertain from Rev. whether, in case the Coy refuse the offer & insist on arbitration, it is necessary or permissible under the rules under § 19(2) of D.I. Act to tender payment of the amount offered or deposit it anywhere in order to avoid a claim for interest. I do not remember any case in which we have paid interest on agreed compensation for immovable property acquired under the D.I. Rules. It is perhaps worth while to offer interest at 6% p.a. in this case in order to induce the Coy to agree if possible, though there is no legal obligation whatever to do so. Rev. Dept., which deals with acquisition of immovable properties under the D.I. Rules, may see.

This is proposed on the assumption that the § 19(1) D.I. Act procedure applies only to land & buildings & it applies to the whole compensation (see para. 2 below) then my recommendation is as in para. 4 below. DwD

M B

(Not part) C

2. D.I.C. assumes that the whole of the plant & machinery is movable property. The question whether any of it is so fixed to the buildings that it would be open to the Coy to maintain that it is immovable property may be considered. I now find that § 299(2) of the Govt of India Act mentioned in § 19 (1) of the D.I. Act relates to the compulsory acquisn of "land, or any commercial or industrial undertaking". It does not mention buildings, but presumably "land" would be

X

interpreted as including buildings for this purpose. But in view of the mention of "commercial undertaking", I think the position will be that we have acquired a commercial undertaking in this case & ∴ the whole of the compensation, whether for immovable or movable property, will, as compensation for a comml undertaking be governed by § 19 (1) of the D.I. Act, so that the Coy will have the right to demand arbitration regarding the compensation not only for immovables but also for movables in this case in spite of the provision in D.I. Rule 75 A (4) regarding movables. Legal should be asked to advise. If this view is correct, the point at × above need not be pursued.

3. If compensation for movables is payable in terms of D.I. Rule 75 A (4) & all the plant & machinery can properly be treated as movables, I would recommend paying straight away the compensation assessed by the departmental officers. They have evidently made a careful valuation; it is clear from Mr. Peychand's report that much of the plant was in very poor condition when taken over, & I see no reason to suppose that his valuation is too low. He is an expert & is in the best position to say what the actual market value of the plant was as on 16.3.43. If we can proceed under D.I. Rule 75 A (4), it is not desirable to spend further time in arguing with the Coy. Their views are on record at pp. 19 — 20 C.F.

4. If, however, the § 19 (1) D.I. Act procedure applies to the compensation as a whole (see para 2 above), then the D.I.C. may be authorised to make an offer to the Coy. on the lines of his draft letter at pp. 15-18 C.F. subject to verification of the small points at A & B at the bp of the previous page. The rates of depreciation mentioned on p. 18 C.F. are presumably per annum, & this should be made clear. If a uniform procedure is to be followed for the whole compensation, the question arises whether it will be in order to offer 15 % solatium on land & bldgs alone as proposed by D.I.C. or whether we should allow it on the whole compensation, as claimed by the Coy. I think the D.I.C.'s proposal might be accepted, explaining to the Coy that 15 % solatium is included in regard to land & bldgs as that is the usual practice, though there is no provision for an arbitrator to award it, but that it is not included in regard to other items, following the usual practice. If we are to make an offer for the whole compensation, it is for consideration whether we

should include interest at 6% p.a. from date of acquis to date of payment on the whole amount as proposed by D.I. In general we do not pay any interest on the compensation for either immovables or movables. As far as I remember, it has been paid only in a few cases in Home Dept in regard to the value of motor vehicles which were originally seized without a lawful requisitioning order & paid for only after a year or so. Perhaps 6% p.a. on the whole amount might be offered in this case as a special case as an inducement to the boy to accept the offer.

14672

E

5. The case may please be treated as Special as there is a question of payment of interest at 6% p.a. up to date of payment, & the matter should be settled as quickly as possible.

Special

Dew 20.6.43 Ad. Secy., Dept.

Department/Rev/Legal may see the Dir Secy's note above for remarks.

Rev 25/6/43

Legal

Rev. Dept.

Pump 21/6/43

Tous.

Dew 3050-7784 DI/43-5 21.6.43

Rev C.No. 15839/43 22.6.43

L

Please see the notes from p. 1 ante. The remarks of this dept. are invited on the note of the Finance Secretary at pp 7-9 above.

Para 1 of the note of the Finance Secretary at p. 7 ante:-

Portion marked 'A':- There is no provision in the Defence of India Act or in the Defence of India Rules for the payment of 15% Solatium. As a matter of expediency however the Govt. of India have allowed the payment of the Solatium when agricultural land is acquired under the Defence of India Rules.

p. 18(Z)

When land other than agricultural land is acquired, the 15% Solatium should not be offered and in cases in which agreement cannot be reached (without the payment of the Solatium) should be referred to the Central Govt: for orders — Vide para 2 of the Govt. of India letter No. 1605 - Comp/42 (Secret) dated 21-11-1942 at p. 1 of (A). (Z). When the acqn or requn is for the ~~Defence~~ Services (see Fl 2 title). In the present case the land acquired under the Defence of India Rules is ~~presumably~~ not an agricultural land ~~of the~~ the 15% Solatium ~~cannot~~ to be paid, ~~except under the orders of the Govt. of India (in the acqn or requn is on behalf of the Def Services) (see Fl 2 title)~~ it seems advisable to consult Central Govt for uniformity of policy.

It is also submitted that there is no provision in the Defence of India Act or in the Defence of India Rules for the payment of interest on the amount fixed as compensation, corresponding to the provision made in Section 34 of the L.A. Act.

Portion marked 'B' in para 1 of the Finance Secretary's note at p. 7 ante

Under the rules framed under Section 19(2) of the Defence of India Act, issued with G.O. No. 1839 Revenue, dated 8-6-43, the amount offered as compensation should be deposited in court if the person to whom the amount is offered does not accept the offer and desires to apply for the appointment of an arbitrator.

Portion marked 'C' in para 1 of the Finance Secretary's note at p. 7 ante:-

In the circumstances stated, this dept may agree for the payment of interest as a special case. Separately the Govt. of India have been addressed to allow the payment of interest at 6% p.a. in complicated cases where the settlement of claims take some time and the reply of the GOI is awaited.

Para 2 of the Finance Secretary's note at pp 7-8 ante:- ~~Legal~~ Legal will no doubt favour Legal with advice on the point raised in this para. Dept. may be requested to send the file to this dept. in due course for noting the ruling that may be given by Legal on the point.

Para 3 of the Finance Secretary's note at p. 8 ante:- This dept. may agree with the views expressed by the Finance Secretary.

Para 4 of the Finance Secretary's note at pp 8-9 ante:— As already stated, the ~~orders of the~~ Central Govt. ~~have to be obtained~~ may be deputed to appear for the payment of the 15 % solatium, ~~if the land in question is not agricultural land~~ The payment of interest may however be agreed to as a special case — Vide S' on p/10 ante.

E

2. The file may be passed on to Legal after orders are passed.

SW ED 22/4/43

It is submitted that as the basis are presumably now unobtainable, though presumably spare parts for repairs can be obtained, their value will be necessarily very high in the open market. It appears that they can be put into working order as soon as possession from the factory as a commercial concern.

(H) M. Pershad appears to value the basis on their present working conditions as compared with their value in 1937. Respectfully the only factors to be taken into consideration ~~Muslim~~ in wartime, if they can be put to use, their value will be stated as high as it would be if it was peace time. The figures put forward by D.I. & C. would appear to be more reasonable.

M

2) Payment of compensation for an industrial concern by piecemeal valuation of 1) land 2) buildings 3) machinery appears to be a little strange. These are not the real factors which make up a commercial undertaking or business, and the business will surely lose a good deal more than its material possessions

12

Govt could take over Selfridges merely by paying the cost of its buildings and stock!

From p 2 of (S) it appears that Govt expect to make a profit of Rs 97,200/- from this factory. The firm appears to have made a profit of Rs 9,685/- for the year ending 30.6.42 (S) p 5 of F When property consisting of land & bldgs is acquired under L Acqn Act, usually the net annual rental value is taken as a basis of payment of compensation.

If the Board of Trustees are prepared to negotiate on the basis of the value of land machinery etc (but they apparently don't, for they demand the question of compensation for the trained specialists) and this approaches the question of "goodwill" there is no objection. Both of the cases for arbitration we are entitled to escape with a mere Rs 85,000/-.

As regards Para 2 of Lt S's note above, I see that the matter was considered in the notes at Pp 17-18 of Dev. G.O. 311 d. 12.3.43. (J) Legal will have to look into the implications of this acqn again with ref. to Para 2 of Lt S's note at Pp 7-8 above.

23/6/43. Legal.

Legal Department.

The Government have not acquired the commercial undertaking as such. They acquired only the immovable and movable properties specified in the order- See page 31 of (J) and page 13 of (S). In fact it is not possible to acquire under

Dev G.O. No. 1563 9/6/43

ASSISTANT SECRETA. 3971C 23 JUN 1943 3 P.M. LEGAL DEPAR

rule 75 A of the Defence of India Rules a going commercial concern as such, for that rule authorises only the acquisition of property movable or immovable. The Punjab High Court held recently that a going concern as such cannot be acquired under the rule.

The expression "land" in section 299(2) of the Government of India Act, 1935 has been defined in section 299(5) of that Act as including immovable property of every kind. There is therefore no doubt that section 299(2) applies to the compulsory acquisition of land and buildings thereon. Consequently the procedure prescribed in section 19(1) of the Defence of India Act in regard to the payment of compensation will apply to the immovable properties acquired by the Government. If no agreement can be reached in regard to the amount of compensation for the immovable properties, an arbitrator will have to be appointed- See section 19(1)(b)

As regards movable properties, the provisions of rule 75A(4) of the Defence of India Rules will apply. Under that rule the owner is entitled to be paid such compensation as the Government may determine.

I explained the above position when the matter was discussed with me by H.E's A-2, the Director of Industries and Commerce and Mr.Sivasankar before orders requisitioning the properties were issued- See in this connection also Mr.Sivasankar's note at pages 17 to 19 of Flag J.

By acquiring the lands, buildings and machinery, the concern has ceased to function. This circumstance has to be borne in mind when fixing the compensation payable to the company for the properties acquired. A too strict valuation of the materials without some regard to the fact that the previous owners were making a profit by their use, may not ~~thereforee~~ be quite equitable. From the time the articles were acquired the company ceased to make any profit out of them. As the compensation was not paid on the date of acquisition, interest should be paid on the compensation amount at a reasonable rate from the date of acquisition till the date on which the amount is paid.

egal2-0397(E)
24-6-43.

14

Dev. Dept.

To Addl. Under Secretary.

This file relates to the proposals of the Director of Industries and Commerce for the payment of compensation to the Kollegal Silk Filatures Ltd. in respect of its movable and immovable properties acquired by the Govt. of Madras under the Defence of India rules. The properties were valued by the Departmental Officers. The statement at page 4 above shows the value of the properties as assessed by the departmental officers, the amount of compensation claimed by the Company and the amount suggested by the D.I.& C. The remarks of the Finance, Revenue and Legal Deptts are at pages 5-13 above.

Compensation for movable properties:-

The Company has claimed Rs.95,250/- for the movable properties specified at (N) on page 18 c/f. Mr.Peychaud, Dy. Director of Textiles, has assessed the value of the items at Rs.28449/-. The D.I.& C has suggested that Rs.43,129/- be paid on the basis of the book value of the items as on 31-3-43, less depreciation. Finance Secretary has stated that there is no reason to suppose the valuation of the Expert to be too low. Revenue Dept. consider the D.I.& C's figure to be reasonable. Under subsection (4) of rule 75 A of the D.C.I. rules, the value of movable properties determined by the Govt. is final. Finance Secretary has also stated that as the rule does not provide for revision of the amount by arbitration as in the case of the immovables, the amount fixed for the movables be paid to the Company straightaway. For orders whether the assessment made by Mr. Peychaud will be accepted or whether the D.I.& C's proposal will be accepted.

Compensation for immovable properties:- The Company has claimed Rs.57,265/- for land(including well) and buildings. The Special Engineer valued the items at Rs.31,416/-. The D.I.& C valued the land and well at cost and the buildings at bookvalue, as on 31-3-43 less depreciation and proposed that Rs.5525/- be allowed as solatium. Finance Secretary agrees that as an inducement the Company to accept the offer, the amount proposed by the D.I.&.C. namely Rs.42,357 (including solatium) may be offered to the Company. Revenue Department point out that

A on p. 10 ante

solatium is not payable for the acquisition of non-agricultural lands and that if it should be paid Govt. of India may be consulted. It has also been suggested that the amount determine as compensation may be deposited in the court if the company does not accept it and desires to apply for the appointment of an arbitrator under section 19 (1) of the Defence of India Act. It is for orders (1) whether the sum determined by the D.I.&.C. excluding solatium will be accepted for payment as compensation and offered to the Company and (2) whether the Govt. of India will be addressed on the grant of solatium as suggested by Revenue.

Vide B on p. 7 ante and X on p. 10 ante

p. 21 of file ... Note-book

42337 B

53 21

36802 ante

A on p. 10 above

Payment of interest. The Company suggested the payment of interest on the compensation amount from 16-3-43, the date of requisition, to the date of payment. Finance agree to this as an inducement to the company to accept the offer. Revenue also agree to the payment of interest as a special case. The notes of the Legal Dept. at p. 13 above in this regard may also be perused. It is for orders whether interest at 6% will be allowed in respect of the compensation with effect from 16-3-43 to date of payment. The question of further accrual of interest on the amount will be avoided by the payment of compensation for moveable properties immediately and by the deposit in court of the amount for immoveable properties with a caveat to the Company as indicated at 'M' on p. 7 above.

M on p. 20 c.f.

M on p. 7 above

S on p. 10 above

bottom of p. 13 above.

B on p. 14 c.f.

From Secy's suggestion at M on p. 7 above

The D.I.& C. will be asked to modify the draft letter to the Chairman of the Board of Directors of the Company, at pp 15- 18 c.f., on the lines of the orders passed on the several points noted on above and also with ref. to A and B of this office note on p 7 above

Lr. dt. 25643 dt. 26643

A - p. 14 above — Movable properties.

While valuing the property, Peehard has not taken into consideration the fact that prices of machinery and spare parts have increased very greatly during the war. Although we have received only

16

the properties of the Coy and not its business, it cannot be denied that the business of the Coy has ceased to exist on account of the acquisition & strict interpretation of the rules may not be equitable The Dirs proposal may be accepted

on p. 15 above Immovable properties

We may accept the amount of compensation suggested by the Dirs If we try to reduce it the Coy is not likely to accept it and an arbitrator may award a figure much higher than the one proposed by the Dirs The principle of giving a solution is reasonable may be accepted It does not seem necessary to hang up these proceedings and ask for and award Indra Gpta who can make the final award ask for Indira's opinion after words

for orders

26/6/74 S

(Notes from p. 14 above)

Movable properties

We cannot agree to pay compensation on a depreciated basis which in effect is what the Company wants. The Dirs suggestion to pay on the basis of book value is fair while the Company owns the land may be a different (The last Balance Sheet of the Company is at pp 6-7 of (S))

Immovable property

The Privy Council have held that when land
after Muhammadan Law is acquired the U.P.
Govt. Rules for Compulsory acquisitions should not
be followed. In cases in which agreement cannot be
reached should be referred to the Govt of India. Although
agree that though the U.P. Rules in a case of Compulsory
acquisition is equitable I feel that as the matter has to be
referred to the Govt of India in the event of the Company
declining the offer we ought not to go beyond India's
ruling. The amount proposed (Rs 2.5 lacs)
by excluding the U.P. Govt Rules may be offered as compensation
and interest on the
& Compensation may be paid at 6% p.a. from the
date of dispossession on which the factory was acquired
& acquired under the Defence of India Rules upto the date of
payment of the value of the movable & immovable properties of the Company. H.P. 27/6/43

H. S. 28/6/43

28/6/43

P. 28/6/43

"Govt" - as
rules in other
provinces & interest
payment & dispossession
& award Compensation
U.P. is adopted.

J. Addl Secy.

With reference to the orders above,
a draft D.O. to the D.Sec is submitted for
consideration. (The case may perhaps be sent
to Pvt. Secy for perusal of the orders in circulation
and of the draft reply to D.Sec).

28.6.43 28/6/43 a/c to U.P. Govt

28/6/43

P.T.O.

To Addl. U.S.

As orally directed a draft memo ordering payment of compensation for immovable properties and a draft D.O. to the DIBe are submitted. for approval communicating the decision of the Govt re immovable properties and payment of interest are submitted. They may be sent to Finance for perusal.

Dev 29.6.43

29/6/43 S. 29/6/43

17320

Dev 29.6.43

Dev No. 7784-D/43.6
29.6.43

Finance (Accts.B.)

(Previous Finance notes on pp. 5-9 ante.)

The further notes of Revenue, Legal and Development ~~meeting~~ ~~points raised by the Secretary~~ on pp. 9-17 ante and the orders in circulation on p. 17 ante, may be read

The draft D.O. and the draft Memo. put up by Development may be perused and the case returned to them U.O.

~~It is presumed~~ Development may be requested to add a para to the draft D.O. to the Director of Industries and Commerce on the points raised at A and B at the foot of this Department's note on p. 7 ante.

KAr 30.6.43 S. Pencil additions in the draft d.o. are suggested.

I presume the intention is that if the D.I.C. does not receive a reply within a week from delivery of his letter to the Collr., accepting the offer for immovable property ~~the offer for immovable property~~ he should deposit the amount in the appropriate Court without further reference to the Govt. If so, this may be made quite clear in the d.o. Dev 30.6.43

7 Jul 1943 Addl 30-6-43

Dev. Dept.

165.4

To Addl. U.S.

A above It is presumed that the discrepancies noted at A & B on p 7 above do not in any way affect the Compensation fixed for the immovable properties. The DIBe can be asked separately

by a T.M. to remedy the mistake in the report.
If this is approved, no alteration to the D.O. in this regard will be called for. For orders.

B on p. 18 ante: The pencil additions made by the Secy in the draft D.O. may be accepted

C on p. 18 ante:

The intention is that if the Company accepts the offer made in respect of the immovable properties, the D I Bx should be authorised separately to pay the amount with interest as has been proposed in the draft memo re: movable properties. If the offer is not accepted by the Company, the D I Bx will be authorised to draw the amount of Company's deposit with interest accrued up to date of issue of the letter by the D I Bx to the Co making the offer and to deposit it in the appropriate Court. The Govt of India will then be addressed for the appointment of an Arbitrator under Sec 19 of the Dft. Act, informing them of the tender of the amount in Court. If this position is accepted, no modification to the D.O. is necessary. For orders as to the form of the draft D.O & memo.

Vide M on p. 47 of the draft below

X

p. 21 of Fldr of D.O. letters

[illegible] 1743

[illegible] p.30 pm

[illegible] See X on p. 23 ante

ASST. SECRETARY TO GOVERNMENT
2 - JUL 1943
2 P.M.
FINANCE DEPARTMENT

18331 Accts.

Secrio. 2784 21/43-7

2.7.43

2/7/43. S.

S. 2/7/43

Dr

7 maries (Hamilton)

7 maries last saw on page 19 ante

In the circumstances stated by the Dept Draft pp 18-19 ante
7 maries may agree to the draft being issued with
the pencil corrections made by Secretary to the / SWD
Draft Bill (Draft I) - With ref to portion marked C
NPD 2-7-43 + 7 (N) 2-7-43 on p. 18 ante please see the remarks of Dep. at A on
p. 19 ante. KRV 2.7.43 No further action
need be taken re A & B at the top of p. 57 N.F. as they do not
affect the compensation now fixed for movables. DW 2-7-43 Dept.

7 mi 2. 1633 31 Sheets.
2-7-43

DW

Medical Mission

10401

2/7/43 S. 2/7/43

Issued as D.O.No.7784-D/43-8 dated 2-7-1943 to the D.I.& C

Issued as Memo.No.7784-D/43-9 dated 2-7-1943 to the D.I.& C

From the D.I.& C D.O. No.2160-D/43 dated 19-7-1943

To Addl. Under Secretary.

Please see the D.O. from the D.I.& C, at page 29 c.f, forwarding copy of resolution of the Board of Directors of the Kollegal Filatures Ltd, regarding the compensation payable for its properties acquired under the D.O.I rules. The following points in the resolution of the Company calls for remarks:-

X on p 31 c/f

(a) Plant and machinery including the basins being permanently fixed constitute immovable property;
(b) Claim for solatium for handing over the Company as a running concern; and
(c) Acceptance by the Company under protest (and without prejudice to ~~their~~ claim for greater amount as compensation) of the sum of Rs. 79,961-7-0 offered by the Govt. for the movable and immovable properties aqquired.

Item (a) above:- It does not appear from the Balance sheet of the Company that it ever treated these items of asset as immovable property as being fixed permanently to the buildings Plant and machinery were separately classified, as distinct from land or buildings. The valuation of both movable and immovable properties was made on the basis of the bookvalue of these items less depreciation. It is therefore immaterial how these items are classified for fixing compensation. The suggestion of the Company to adopt the market value for the land etc and for the movables was not accepted by the Govt. No reconsideration of the decision already reached is called for. For orders.

Item (b) above:- Specific items of movable and immovable properties of the Company were requisitioned and acquired by the Govt; the Company was not acquired as a running concern. In the circumstances it was decided that no solatium for compulsory acquisition need be given. It was also considered not necessary to give the Company solatium of 15% of the value of the lands as such solatium was payable only in the case of acquisition of agricultural lands. No action seems called for on the resolution regarding this point.

Item (c) above:- The Company has expressed its willingness to receive under protest the sum of Rs.79,961-7-0 offered by the Govt. ~~under protest~~. The D.I.& C has not stated whether he has paid the sum of Rs.43,129-6-0 sanctioned for payment as compensation for

the movables. It is submitted that the D.I.& C may be asked ~~to pay this amou~~ to pay this amount to the Company immediately to avoid further accrual of interest. He may also be authorised now to pay the sum of ~~Rs.~~ Rs.36,832-1-0 fixed as compensation for the immovables leaving it to the Company to establish its claim for any further compensation.

42129-6.
268
79961-7
C

Reference is invited to section 19 of the D.O.I Act which provides for the appointment of an Arbitrator in the event of a disagreement regarding compensation in respect of immovable properties. It has not been specifically stated that the application for the appointment of arbitrator should be made to the Central Govt. by the authority acquiring the properties. As the Company has not refused acceptance entirely ~~but wishes to prove its claim for more compensation~~, after receiving the amount now offered, it seems possible to leave it to the Company to address the Central Govt in the matter or to take such other steps as it may be advised to adopt to prove its claim. If this is approved, sanction may now be accorded to the payment of Rs.36,832-1-0 for immovable properties.

D

The case may be sent to Legal for advice regarding A above and to finance for sanction of the payment for the immovable properties.

on p 21 ante
X

"A" on p. 21 ante — Legal may advise whether machinery is a moveable or immovable property. How it is entered in the records of Act is not relevant.

M

"B" on p 21 ante — The D.I.C. told me on the phone that he has issued a check in the Collegal sub. hearing for payment of compensation for movables to the Co. & that the amount is being paid today.

"C" ante — The Dir may be authorised to pay Rs 36,832-1-0 plus interest to the Co. straightaway once the "Co" has taken the amount; no need to apply for an arbitrator. Let the Co apply. Leg. may advise accordingly.

20.7.43 21/7/43.

ASST. SECRETARY TO GOVERNMENT
22 JUL 19
FINANCE DEPARTMENT

2124; draft "D"

21/7/43 Ad. S.

21/7/43 For Legal.

Dev cis. 7782 D./43-11
22.7.43

Finance(Accts)

(Finance last noted on p 20 ante).

The file has now been sent to Finance in connexion with the proposed ~~sanction to pay~~ payment to the company the sum of Rs 36,832-1-0 representing the value of the immovable properties with interest at 6% per annum from the date of requisition of the property viz. 16-3-43, upto the date of payment of compensation. This has already been agreed to by Finance-Vide para 3 of the D.O. on pp. 25-26 C.F and Finance notes on p 18 ante. No further remarks are called for. ~~and~~ The file may be passed on to Legal.

X ... p 22 ante

Finance ... pp 25-26 C.F

A ... p 27 C.F

With ref. to Resolution No on p. 32 C.F, the Company will receive payment under protest. There is therefore no need to deposit the amount in Court. The payment may be authorised.

RAV 22.7.43 DwD

H.P.D 22-7-43 RAV 22.7.43 : RAV 22.7.43 Evidently the Govt mean to take the matter to arbitration. Legal may advise whether in order to pay them the amount offered, which they will receive under protest, & leave it to them to apply separately for the appointment of an arbitrator. Rev. may also see. DwD 22.7.43 Legal/Rev./Dept.

Q

Box

Legal Department

A on page 21 and M on page 22. Plant and machinery attached to earth or permanently fastened to anything attache to earth are immovable property and not movable property. (See section 3 (25) and 3 (34) of the General Clauses Act, 1897 (India Act X of 1897)). It is a question of fact whether any particular plant or machinery is or is not attached to earth or permanently fastened to anything attached to earth.

Portion marked Q above and on page 22. It is not possible to leave it to the party whose immovable property has been acquired to apply or not to apply for the appointment of an arbitrator to fix the amount of compensation. Section 19 (1) (b) of the Defence of India Act lays down that where no agreement as to the amount of compensation can be reached, the Central Government shall appoint an arbitrator to determine the compensation. It is the duty of the acquiring

Box

X p 21 ante

ASSISTANT SECRETARY
4682C
22 JUL 1943
5.30 P.M.
LEGAL DEPARTMENT

Zuiva. 21/247 Rec'd by Box 22-7-43.

Government to pay the owner of the property compensation determined as provided in the relevant law, in this case section 19 of the Defence of India Act.

In this case no agreement has been reached in regard to the amount of compensation and it follows that the amount has to be fixed by an arbitrator appointed under section 19 (1) (b) of the Defence of India Act. Until the amount of compensation is so fixed it must be held that the compensation payable to the owner has not been determined according to law. It is obvious that the acquisition proceedings will not be complete until the compensation is determined as required by law and the amount is paid or tendered to the owner of the acquired property. As in this case the amount of compensation has not been determined according to law, the fact that something was paid to the owner and accepted by him under protest, will not discharge the Government from its obligation to determine the amount of compensation legally payable to the owner. In the circumstances it is impossible to leave it to the owner to apply for the appointment of an arbitrator if he likes; on the other hand it is a duty of the Government to appoint an arbitrator under section 19 (1) (b).

As the functions of the Central Government under section 19 of the Defence of India Act have been delegated to this Government there is no necessity to approach the Central Government for the appointment of an arbitrator. The Madras Government can themselves appoint the arbitrator and they are bound to do so if in their opinion no agreement with the company can be reached in regard to the amount of compensation. After the arbitrator has given his award it will be for the party dissatisfied with the award to appeal or not to appeal to the High Court. Subject to the result of any appeal which may be filed the award of the arbitrator will be final and binding on the parties.

UNDER SECRETARY TO GOVT. C.No.21599 23 JUL 1943 REVENUE DEPT.

23/7/43

Rev/Dpt

To L.S.

Rev. Deptt Legal no 4687C-1 23.7.43

This Deptt. last saw at pp 9-12 ante. The further notes on the file may be perused. The file has now been sent to this Deptt.

With ref: to the portion marked 'Q' at p. 23 ante. Please see the remarks offered by Legal on the point at pp 23-24 ante.

(M) In f.o. No. 1839 Revenue, dated 8-6-1943, rules have been issued prescribing the procedure to be followed for the appointment of arbitrators in cases where Collectors requisition or acquire immovable property under the Defence of India Rules and where the owners of the property do not accept the Compensation fixed by the Collectors. ~~If~~ Devt. ~~consider it desirable, they~~ may follow ~~a similar~~ procedure in this case. With these remarks the file may be returned to Devt. (With ref: to the portion marked 'T' on p. 10 ante, a copy of the note of the Legal Dept. at pp 12-13 ante may be kept in Stock file for reference)

N!

A

Dev. 24/7/43

Legal Dept. 24.7.43

A Perusal of the profits & the return filed by the factory for the year ended 31st March 1943 would judicially satisfy the Govt. and save unnecessary trouble.

Dev. have no doubt considered this aspect before arriving at their present decision

Dev. 24/7/43

24 July S

Dev. Dept

Dev. a.c. No 19825

24-7-43

ADDITIONAL ASSISTANT SECRETARY TO GOVERNMENT DEVELOPMENT DEPARTMENT 24 JUL 1943

ADDITIONAL UNDER SECRETARY TO GOVERNMENT DEVELOPMENT DEPARTMENT 24 JUL 1943

To Addl US.

With reference to orders at X below, a draft memo and a draft D.O. to the D.I.G. are submitted for approval.

A above: It does not appear feasible for the Govt. to commit themselves to any decision now regarding the disposal of the properties (now acquired) after the war. For orders.

Appointments of arbitrators: For orders

Draft memo & D.O. to D.I.G. 24/7/43

I agree 25/7/43

R 25/7/43

-26-

Whether the Draft may be drawn up on receipt of the D I & C's reply to the D.O. now put up, or after issue of the draft put up.

Draft for approval. Ad.S 25/7/43

Pl. put up file 26/7/43

As advised by Rev, the portions underlined in the (M) may be followed. The Draft may issue. 28/7/43

[Issued as Memo No 7784 D/43-12 d 28.7.43 to DI&C] pp

[Issued as D.O. No 7784 D/43-13 d 28.7.43 to DI&C] pp

[From the DI&C, D.O No 2160 D/42 d 20.8.43] p 39 cf

To Addl US.

Re: order at p.39 cf:

A draft D.O. to the DI&C is submitted for approval.

27/8/43

[Issued as D.C.No.7784/43-15 dated 27-8-1943 to D.I.&C] p 41 cf

[From the D.I.& C, D.C.No.2160-D/42 dated 31-8-1943.] pp 43-46 cf.

To Addl.U.S.

Please see the D.O. from the D.I.& C at pp.43-46 c.f.

Nomenclature of Plant and Machinery:

Plant and Machinery of the Kollegal Silk Filatures Ltd, comprising two Boilers, one Steam Engine and reeling basins were treated as movable property for assessing compensation and a sum of Rs.46429-12-0 was paid in respect thereof. The Company suggests that such items should be considered as immovable property and that the compensation paid should also be based on the present market rates. With reference to the notes of the Legal Dept. at A on page 23 above, the D.I.& C has now submitted the opinion of the Govt. Solicitor in the matter. The Govt. Solicitor states that all the items noted above are immovable property while the D.I.& C doubts whether the Boilers could be treated as such.

A on p 47 c

X on p 28 cf

X on p 31 cf

M on p.

B on p 4:

If the opinion of the Govt. Solicitor is accepted in toto, the Company will be entitled to prefer a claim before an Arbitrator for the revision of the amount of compensation in respect of all the items; if not, the claim which may be made by the Company in respect of the Boilers will have to be objected to by the Accuiring authority. Legal may be requested to advise.

A

Appointment of Arbitrator:-

Please see M on page 44 c.f.

Ordinarily, the application for the appointment of an Arbitrator should be made within 15 days of the offer of the amount of compensation for the immovable property acquired. In the peculiar circumstances of this case, the D.I & C was asked to inform the Company that it might apply in writing for the appointment of an arbitrator setting out full details of its claim. The Company does not appear to have moved in the matter yet, though it has received the amount offered under protest. The present case is not one in which the Govt. could proceed suo moto to appoint an Arbitrator as laid down in rule 5 of the rules issued in G.O.No.1839 Rev dated 8-6-1943. But in view of the need for determining according to law, the compensation payable to the owner and to reach a final settlement in the matter, it is for consideration whether the D.I.& C may be asked to put it to the Company that it should sub it its application expeditiously (within a date to be specified) or in the alternative it should execute an agreement in the Form E (suitably altered for the purpose) in Schedule I of G.O.No. 1439 Rev dated 8-6-1943. in final settlement of the compensation for the immovable properties. Subject to orders, a draft D.O to the D.I & C is submitted for approval.

B.

"A" above - Legal have already given their opinion as to what is "immovable property" whether the boilers are movable or immovable can best be decided by the arbitrator after personal inspection. We should follow the opinion of the Govt. solicitor. Leg. may however be consulted after the issue of draft.

"B" above - Attention of the Coy. may be drawn to

28

to the procedure laid down in (M) and it may be told that unless it applies for an arbitrator within 15 days it shall forfeit the right to apply for one. Draft below may kindly be seen.

3/9/43. S.

Legal

4/9/43

Law Legislative Secretary / A

Not signed as legal adviser nor agree to A above

Secret. 2.e.no.7786 DI/43-15

4.9.43

Legal Department.

As I have already pointed out in my previous note at page 23, plant and machinery attached to earth or permanently fastened to anything attached to earth are immovable property. It is a question of fact of course whether any particular plant or machinery is or is not attached to earth or permanently fastened to anything attached to earth. Engines and boilers in a factory are ordinarily built in fixtures, that is to say, they are either attached to the earth or permanently fastened to something attached to the earth. If as I presume such is the case here, the engine and boilers should be regarded as immovable property as stated by the Government Solicitor. If the Government wish to press their claim that the engine and boilers in the present case are not immovable property on the ground that they are not attached to earth or permanently fastened to anything attached to earth, they can urge it before the arbitrator. The arbitrator will presumably be appointed only to determine the amount of compensation in regard to immovable property. If so, it is possible to urge before him that these particular items are not immovable property and consequently are not within the purview of the reference to him.

ASSISTANT SECRETARY I
6 SEP 1943
LEGAL DEPARTMENT.

56870

2. I am afraid it will not be in order to tell the company that it will forfeit its right to have the compensation adjudicated by an arbitrator unless it applies for the appointment of an arbitrator within 15 days. As I have already pointed out in my note at page 24 ante, section 19 (1) (b) of the Defence of India Act makes it incumbent on the Government to appoint an arbitrator in all cases where no agreement can be reached in regard to the amount

[L.D.P. ...]

of compensation payable on the acquisition of immovable property. The section is mandatory and lays down that where no such agreement can be reached the Government shall appoint an arbitrator. The section does not contemplate any application by the claimant as a condition precedent to the appointment of an arbitrator. Section 19 (3) (a) no doubt empowers the Government to make rules regarding the procedure to be followed in arbitrations under the section. This power does not enable the Government to impose a clog on the operation of the mandatory provisions of section 19 (1) (b) by making the appointment of an arbitrator conditional on an application by the claimant within a given time. As I have already noted at page 24, it is the duty of the Government to appoint an arbitrator under section 19 (1) (b) in this case as no agreement is found to be possible.

Development Department.

To Addl. J.S.

This file deals with the payment of compensation to the Kollegal Silk Filatures Ltd., in respect of the movable and immovable properties acquired under the defence of India Rules, by the Government of Madras. The Company claims a sum of Rs. 4,92,642/- as per details at page/c.f. 20 With the assistance of the Dy. Director of Textiles and the Special Engineer at Kollegal and an Executive Engineer (on special duty), the D.I.R.C. assessed the value of the movable and immovable properties at Rs. 43,129-6-0 and Rs. 36,832-1-0 respectively. The amount so assessed was offered to the Company.

The Company received payment under protest and without prejudice to its claim for a higher amount of compensation. Under the D.I. Rules, the amount fixed for the movable properties cannot be referred for adjudication by arbitration. In the case of the immovable properties, the Company has not agreed to the amount and wants that the plant and machinery comprising engine, boilers and reeling basins should be treated as immovable property, and their value revised.

was asked to apply for the appointment of an arbitrator as laid down in rule 3 issued in G.O.No. 1839 Revenue dated 8-6-1943 but it has not done so yet. Legal has pointed out that the Govt. may themselves appoint an arbitrator to determine the amount of compensation.

The High Court has suggested that the District and Sessions Judge of the District in which the immovable properties are situated may be appointed as arbitrator if he is qualified for the purpose and if not the District Judge of the neighbouring Dt. who is so qualified may be appointed. The properties in question are in the Coimbatore Dt. The Dt. and Sessions Judge, Coimbatore is qualified to be appointed as arbitrator in such cases. For orders whether he will be appointed. Subject to orders a draft order ~~appointing him~~ is submitted.

The draft order may be sent to Revenue, Public (Special), and Legal for acceptance before circulation.

8/9/43

8/9/43. S

Rev Dept (Spl)

Rev Dept (Spl)

Todas.

This Dept. took law at pp 24-25 ante. The further Notes may be perused. The draft order below may be accepted in this Dept. Dept may be requested to mark a copy of the order to the Hon'ble Chief Justice for information.

Dev. Dis. 7784 D7/43-1

ASST. SECRETARY TO GOVERNMENT
9 SEP 1943
28845
REVENUE DEPARTMENT
CHENNAI-600 009

2 With ref: the notes of the Previous Secretary and Secretary at p.25 ante, please see the notes of the Dept. Dept. at 'R' on p.25 ante. As it has been finally proposed to appoint an Arbitrator in this case this Dept. need not perhaps press for the adoption of the suggestion at 'A' on p.25 ante. For orders.

46724
13/9/43
UNDER SECRETARY
13 SEP 1943
PUBLIC DEPARTMENT

3. The file may be passed on to Public (Spl). [A copy of para 2 of Legal note at pp 25-27 ante will be kept in Stock file]

9.9.43

10/9/43. Pub (Spl)

7784 Dev

Public(Spl)

A in the draft order may be accepted
in this dept and the file returned to Legal

Legal
14/9/43

Public(Spl) Dept.
46724/43-1
16/9/43

LEGAL DEPARTMENT.

The alterations indicated in red ink on the draft notification may be made.

TR91
24 9 43

29644

S Rec
16/9/43

ASSISTANT SECRETARY
16 SEP 1943
LEGAL DEPARTMENT.

Dev

Dev. Dept

Legal No S940-1
22.9.43.

To Addl HS.

A + I 30 Nd

The alterations suggested by Rev &
Legal Depts have been incorporated in the
clean copy of the draft order below.

The draft order explains the
proposal in the case. It may be circulated for
approval.

Yes sir.

25.9.43

27/9/43.

27/9/43

A4 SNR
25/9/43

A1

30.9.43

30/9/43

44-47-45 Cf [Issued as G.O(MS) No. 2436 Dev 8/30-9-43]

Exhibit (1) (Part of pages)

Development Department.

Sub: War - Defence of India Rules - Acquisition of immovable properties - Kollegal Silk Filatures Ltd., - Payment of compensation - Appointment of Arbitrator.

Read again: G.O.No. 311 Development dated 12-3-1943 and G.O.No. 448 Development dated 30-3-1943.

ORDER:--

In G.O.No. 448 Dev. dated 30-3-1943 the Govt. of Madras acquired under the Defence of India Rules certain movable and immovable properties of the Kollegal Silk Filatures Ltd. A compensation of Rs. 43,129-6-0 ~~in respect of~~ the movable properties and of Rs. 36,832-1-0 (for immovable properties) was offered to the Company. The Company has received the amount under protest ~~and without prejudice to its claim for a higher amount as compensation~~. As no agreement has been reached between the Govt. and the Company ~~in regard to the~~ (in regard to the amount of) compensation payable for the immovable properties, the Govt. have decided to appoint an arbitrator to determine according to law the amount ~~payable to the Company in this regard~~ (which should be paid to the Co. as compensation).

Under ~~rule~~ (section) 19(1)(b) of the Defence of India Act, 1939 (XXXV of 1939), ~~read with rules 7 and 8 of the Defence of India (Payment of compensation and Arbitration) rules, 1943 published in the rules supplement to part I of the Fort St. George Gazette dated 13-6-1942~~, His Excellency the Governor of Madras is (hereby) pleased to appoint Thiru Rao Sahib C. Satyanarayana Chowdhary B.A.B.L. District and Sessions Judge, Coimbatore (to fix the amount of compensation to be paid to the Kollegal Silk Filatures, Ltd., as arbitrator) ~~for the purposes mentioned in paragraph above~~ (preface).

The D.I.& C is requested to ~~file~~ before the arbitrator all relevant (evidence) ~~as to the matters connected with~~ the case, and ~~produce such~~ further evidence as may be necessary in the course of the proceedings. The inclusion of the plant and machinery, comprising steam engine, boilers and reeling basins in the category of immovable properties suggested by the company need not be objected to ~~before the Arbitrator~~.

Sd/- C.S. Chetty
8/9/43

Thiru Rao Sahib C.S. Chetty,
Dt. and Sessions Judge, Coimbatore.

The D.I.& C.

The Kollegal Silk Filatures, Ltd., thro' the D.I.& C. (para 1 only).

34

Government of Madras

FINANCE (WAYS AND MEANS) DEPARTMENT

G.O. No. 339, 17th October 1939

Accounts—Payment of Government dues by cheque—Payment of fines, compensation amounts, etc., payable in criminal courts—Excluded from the scope of G.O. No. 285, Finance (Ways and Means), dated 31st August 1939—Amendment to Madras Financial and Account Code—Issued.

READ—the following paper :

G.O. No. 285, Finance (Ways and Means), dated 31st August 1939.

Order—No. 339, Finance (Ways and Means), dated 17th October 1939.

His Excellency the Governor of Madras is hereby pleased to direct that the payment of fines, compensation amounts, etc., payable in criminal courts shall be excluded from the scope of G.O No. 285, Finance (Ways and Means), dated 31st August 1939, and that such payments shall be received only in cash.

2. The following amendment to the Madras Financial and Account Code, Volume I, is issued :—

Madras Financial and Account Code, Volume I—Page 4, *Article* 16 (*b*), *as amended by G.O. No.* 285, *Finance* (*Ways and Means*), *dated* 31*st August* 1939.—*Insert* the following as an exception under sub-clause (2) (i) of the article :—

" *Exception.*—The above procedure does not apply to payment of fines, compensation amounts, etc., payable in criminal courts. Such payments should be received only in cash."

(By order of His Excellency the Governor)

D. W. DODWELL,
Additional Deputy Secretary to Government.

To the Accountant-General, Madras.
" all Treasury Officers.
" all Heads of Departments.
" the Chief Presidency Magistrate, Madras.
" all Departments of the Secretariat (all sections).
" the Finance (Accounts) Department.
" the Finance (Codes Revision I & II) Department.
" the Chief Accountant, Reserve Bank of India, Central Office, Bombay.
" the Currency Officer, Madras.
" the Manager, Reserve Bank of India, Madras.
" the Superintendent, Government Press, Madras.

Flag (A) 35

Comparative statement showing valuation of the properties of the Kollegal Silk Filatures, compensation asked for by the Board of Directors and the compensation proposed by the D.I & C.

Properties. (1)	Compensation claimed by the Bd. of Directors. (2) Rs.	Valuation (3) Rs.	Compensation proposed by the D.I & C. (4) Rs.	Remarks. (5)
I. Immovable ---				
(1) Land and well.	7,265	5,682	7,265	
(2) Buildings.	50,000	25,734	29,566	
II. Movable:-				
(1) Basins.	75,000	17,375	43,129	
(2) Plant and other equipment. ..	20,250	11,074		
III. Cost of trained labour -	15,000	--	--	
Total.	1,67,515 (a)		79,961	
IV. 15% Solatium for compulsory acquisition,	25,127	--	5,525 (b)	
	1,92,642	--	85,486	

(a) 15% on the total of items I to III. (b) 15% on item I alone.

Government of Madras

PUBLIC (SERVICES) DEPARTMENT

G.O. No. 1437, 5th September 1939

Domicile—Determination—Revised form of questionnaire—Amended.

READ—the following papers :—

G.O. No. 160, Public (Services), dated 24th January 1936.

From the Government of India, Home Department, dated 15th August 1939, No. 179/39-Ests.

Order—No. 1437, Public (Services), dated 5th September 1939.

The Government of India have issued the following amendment to the revised form of domicile-questionnaire enclosed with their Home Department letter recorded in G.O No. 160, Public (Services), dated 24th January 1936 :—

AMENDMENT.

" After the word occasion occurring in questions Nos. 4 (*d*). 4 (*e*), 5 (*d*) and 5 (*e*) *add* the following words :—

' (State the approximate dates)

The amendment will be adopted by this Government.

(By order of His Excellency the Governor)

H. M. HOOD,
Chief Secretary.

To all Heads of Departments.
,, the Departments of the Secretariat.
,, the Accountant-General, Madras.

flag (2)

CONFIDENTIAL.

Copy of Memo.No.822-S/42-1, dated 2-12-1942.(Revenue)

Defence of India Rules - Property requisitioned or acquired on behal of the Defence Services - Compensation - From the Government of India, Defence Department letter No.1605-Comp/42(Secret) dated 21-11-42.

A copy of the letter of the Government of India quoted above is forwarded to all Collectors, the Board of Revenue and Accountant General for information and guidance.

From the Government of India, Defence Department, letter No. 1605-Comp/42 (Secret), dated the 21st November 1942.

.....

Requisitioning and Acquisition of land.

Please refer to this Department's secret letter No.1514-OR/42, of the 28th July on the above subject.

2. The following questions have been raised:

(1) In assessing compensation for the purpose of making an offe under section 19 of the Defence of India Act, should the Collector include a consideration of 15% on the assessed value such as is provided for in section 23 of the Land Acquisition Act, 1894?

Section 16(1)(e)(i) of the Defence of India Act, laying down the conditions to which an arbitrator shall have regard, refers to sub-section (1) of section 23 of the Land Acquisition Act only, and payment of the 15% consideration is therefore not required by the Defenc of India Act. This omission was deliberate. The Government of India appreciate, however, that the payment of 15% is customary under the Land Acquisition Act, that some district officers have, in fact, included this consideration in their assessment of compensation, and that its payment may, in present circumstances, go far to, and may even be necessary to, secure goodwill and acceptance of offers of compensation made by Collectors, thereby avoiding resort to arbitration. In these circumstances Government of India are willing to agree that when agricultural land is acquired Collectors should include the 15% consideration in their offers of compensation, provided that the other provisions of section 23 are strictly applied. When land, other than agricultural land, is acquired, the 15% consideration should not be offered, and cases in which agreement cannot be reached should be referred to the Central Government for orders. Provincial Governments should adhere strictly to these principles in future. Cases in which agreement has been reached on any other basis in the past should not be reopened.

(2) When land is requisitioned (not acquired) and is put to use which makes it improbable that it can be restored in the condition in which it can be put to its original use, what procedure should be followed?

While Government remains in possession of the land, compensation should be paid for its use on a rental basis. There is, of course, no question of paying any 15% consideration when land is requisitioned and not acquired. An assurance should be given that either (a) the land will be restored to its original condition if this eventuality proves possible or (b) compensation will be paid for the diminution in the annual rental value of the land, or (c) the land will be acquired. When the period of requisition ends, the Central Government will have to consider whether to adopt course (a), (b) or (c). They will normally only acquire the land when the work done on it is such (e.g. construction of a runway) as to make the cost of restoring greater than the cost of acquiring the land. The procedure to be followed in settling such questions - which will not arise to any great extent until after the war - will be discussed later. If land is then acquired the principle set out in (1) above would apply.

Government of Madras

PUBLIC (SERVICES) DEPARTMENT

G.O. No. 2245, 15th December 1939

Public Services—Subordinate Services—Pay of approved probationers on completion of probation—Stage of time-scale at which period of probation will count for increments—General rules—Amended.

READ—the following papers :—

G.O. No. 947, Public (Services), dated 10th September 1934.

G.O. No. 2241, Public (Services), dated 15th December 1939 (amendment last issued).

Order—No. 2245, Public (Services), dated 15th December 1939.

The following notification will be published in the *Fort St. George Gazette* :—

NOTIFICATION.

In exercise of the powers conferred by paragraph (*b*) of sub-section (2) of section 241 of the Government of India Act, 1935, His Excellency the Governor is hereby pleased to make the following amendment to the general rules for the Subordinate Services published with Public (Services) Department Notification No. 206, dated the 10th September 1934, at pages 1682 to 1694 of Part I of the *Fort St. George Gazette*, dated the 18th September 1934, as subsequently amended.

The amendment hereby made shall be deemed to have been made and to have come into force on and from the 27th September 1937.

AMENDMENT.

To the *Explanation* to clause (ii) of sub-rule (*a*) of rule 10 of the said rules, the following shall be added at the end, namely :—

"An approved probationer whose initial pay was fixed during the period of probation under sub-clause (2) of clause (i) with reference to his substantive pay shall count the whole period of probation excluding the period spent on instruction or training, if any, for increments in the stages at which he would have drawn pay in the time-scale had his pay been fixed with reference to his substantive pay on the date on which he commenced probation."

(By order of His Excellency the Governor)

D. N. STRATHIE,
Chief Secretary.

To all Heads of Departments.
,, the Departments of the Secretariat (all sections).
,, the Accountant-General, Madras.
,, the Superintendent, Government Press, for publication in the *Fort St. George Gazette* and issue of correction slips to Volume II of the Madras Services Manual.
,, the Central Cash Bureau (with extract of notes).

(3) If a Collector is requested by a military authority to requisition land (and does so), but is of opinion that it would be cheaper, or for other reasons preferable, to acquire the land outright, and the military authorities do not agree to acquisition, what should the Collector do?

It has so far been the policy of Government not to acquire land except when it appeared that acquisition would ultimately be cheaper than requisitioning - vide para.3(c)(2) of Defence Department letter No.2549/D.7 of 1st May 1942, which applied only to aerodrome sites. Government propose to define their policy in rather more detail in its application not only to aerodrome sites, but also to all other types of land which they requisition, and will be addressing Provincial Governments on this matter shortly. Pending the issue of general orders, Government consider that, except in those cases where discretion has been explicitly delegated to Collectors, (as in para.3(c)(2) of the letter referred to above) Collectors should carry out the instructions of the authority requiring the land, and requisition or acquire it accordingly. In any case in which the instructions of the authority requiring the land appear to the Collector to be ill-advised, a report with recommendations giving a full statement of the facts, should be made to the Government of India.

3. It is requested that these conclusions should be communicated to Collectors and other officers concerned. The Government of India have no doubt that the Provincial Government will report any further difficulties which may arise.

Government of Madras

PUBLIC (SERVICES) DEPARTMENT

G.O. No. 27, 6th January 1939

Public Services—Recruitment to posts excluded from purview of Madras Public Service Commission—Fees—Scheduled Class candidates exempted from payment for three years from 1st January 1939.

READ—the following paper :—

G.O. No. 1964, Public (Services), dated 16th October 1937.

Order—No. 27, Public (Services), dated 6th January 1939.

The Government direct that the orders in G.O. No. 1964, Public (Services), dated 16th October 1937, prescribing a fee for application for selection for appointment to a post made otherwise than in consultation with the Commission shall not apply to a candidate belonging to a Scheduled Class who has passed the Intermediate Examination in Arts of the University of Madras or of the Andhra or Annamalai University or who has taken a degree of any of the said Universities, whatever may be the post or service with reference to which the application is made. This concession will be in force for a period of three years from the 1st January 1939.

(By order of His Excellency the Governor)

G. T. BOAG,
Chief Secretary

To the Departments of the Secretariat.
Copy to all Heads of Departments.
,, the Accountant-General.

W/ approved

Dev. Dept 41

D.O. 31847 D/43-1 dt

(Copy for)

Sub: War – D.O.I subs – Acquisition of immovable properties – Kollegal Silk Filatures Ltd – Payment of Compensation – Arbitration proceedings.

pp 43-44 of (A) Ref: (i) your D.O. no. 2160 D/42 d/31.8.43

pp 47-45 of (A) (ii) G.O(MS) no. 2436 Dev. d/30.9.43

M on p 46 of (A)

With reference to the opinion of the Govt. Solicitor, I am to say that you need not object to the suggestion of the Company to include the plant & machinery comprising the Steam Engine, boilers and Reeling Godowns in the category of immovable properties.

(Y. S.)

6/10/43

P.T.O

Mr
5.10.43
A. Khaleeli Esq. I.C.S.
D.I.G., Madras.

DM
5.10.43

To Addl. HS.

The draft D.O. overleaf is submitted.

with ref. to orders at M on p. 33 ns. of the G.O. at (A). Draw on indent & dispatch the Laboratory Chemical

6/10/43

To Addl HS

Secy's query above: Reference is invited to the notes at pp. 26-27 ns. (A) as well as note of Legal Dept at p 28 ns. of G.O. No. 2436 Dtd 30.9.43 at (A). Though the Dte thinks that the boilers should be treated as movable property, the Law Officer of the Legal Dept (X) thinks otherwise. The concurrence of opinion would seem to place the boilers in the category of immovable property. Whatever be the nomenclature of the article, the value already assessed

by the Port will not be revised by the Port unless the arbitrator fixes a higher value. It was therefore proposed that no objection need be raised to the Company's suggestion before the Arbitrator to treat the revised basis, cranes & boilers as immovable properties. For orders whether the D.I.&C. will be urged now to object to the classification of this item as immovable and to say that the Arbitrator need not adjudicate on their value. The Question will be before the Arbitrator in any case, as the Company will raise this issue.

X & Y - N 1 & 2

For orders.

8/10/43

8/10/43 S.

I suggest that we adopt a neutral attitude in this matter & leave the decision to the arbitrator. Dinamic may see.

9/10/43

Dir

Dev. 4-a 3184/7 D/43-1 (Please see orders on p. 47 C.F. of (A) this dept. notes on pp 6-9 and 23 N.F. ibid.) Fin. (Accts B)

11.10.43. Dte.

This dept. may agree with the suggestion of Asst. Secretary above.

APD 13.10.43

JLE 13.10.43

14.10.43 If we do not contest the view which will obviously be taken by the boy that all these items are immovable property, the arbitrator will naturally accept the boy's view. The D.I.&C. has, I think, made out a case for regarding the boilers as movable property. There is, at least, a large element of doubt. I suggest that the D.I.&C. be allowed to press his view before the arbitrator that the boilers are movable property, & the arbitrator will then decide on the merits.

15.X.43 Dept.

ASST. SECRETARY TO GOVERNMENT
12 OCT 1943
RAILWAYS DEPARTMENT

Fin 327/Accts B/43

15/10/43

GOVERNMENT OF INDIA
15 OCT 1943
32644

Dev Dept

To Addl HS.

Please see the remarks of Dir. Secy, above. Subject to orders, a revised draft D.O. to DI&C is submitted.

16/10/43

17/10/43. S. In the Sch. Estimates Finance have taken the view that the boilers are movable property. This is supported by Legal opinion. There is no case at all for asking the D.I.&C. to press his view before the arbitrator. The boilers are admittedly fastened & [illegible] some temp. permanently attached & the earth (steampump). Dir may see.

19/10/43

Dev. Dept

To Addl. U.S. Please see orders at p 3 above; by letter at 4443-46

It is presumed that no instructions on ~~this point~~ need be issued to the D.I.C. for orders

20/10/43 20/10/43

No instructions need be issued to the D.I.C.

21/10/43 U.S. 21/10/43

Above